COMMISSION IMPLEMENTING REGULATION (EU) 2024/434

of 5 February 2024

on measures to prevent the establishment and spread of *Agrilus planipennis* Fairmaire within the Union territory

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC [1], and in particular Article 28(1), points (d) to (i), thereof,

Whereas:

(1) The recent outbreaks of *Agrilus planipennis* Fairmaire ('the specified pest') in third countries close to the Union borders require introducing measures to prevent the establishment and spread of the specified pest within the Union territory in case it is found to be present there.

(2) The specified pest is listed as a priority pest pursuant to Commission Delegated Regulation (EU) 2019/1702 [2].

(3) On the basis of the available scientific and technical evidence concerning the specified pest, measures in respect of the specified pest should be taken only for plants of *Chionanthus virginicus* L. and *Fraxinus* L. ('the specified plants') and wood, isolated bark and other objects made of bark, of *Chionanthus virginicus* L. and *Fraxinus* L ('the specified wood and bark').

(4) In order to ensure the absence of the specified pest in the Union territory, Member States should carry out intensive annual surveys for the presence of the specified pest and employ methods in line with the latest scientific and technical information.

(5) In order to prevent the establishment of the specified pest and its spread in the Union territory, Member States should establish demarcated areas consisting of an infested zone and a buffer zone and apply eradication measures.

(6) Based on the biology of the specified pest, the infested zone should include the infested plants and all specified plants which are liable to become infested within a radius of at least 100 m around the infested plants. On the same basis, the buffer zone should have a width of 10 km beyond the boundaries of the infested zone, as this is appropriate for the spread capacity of the specified pest.

(7) However, in cases of isolated findings of the specified pest, the establishment of a demarcated area should not be required if the specified pest can be eliminated from those plants, and if there is evidence that those plants were infested before their introduction into the area, or that it is an isolated finding not expected to lead to establishment. This is the most proportionate approach as long as the surveys carried out in the area concerned confirm the absence of the specified pest.

(8) In order to ensure the immediate removal of the infested plants and prevent further spread of the specified pest to the rest of the Union territory, the monitoring of the demarcated areas should be carried out annually at the most appropriate time of the year and with sufficient intensity.

[1] OJ L 317, 23.11.2016, p. 4.
[2] Commission Delegated Regulation (EU) 2019/1702 of 1 August 2019 supplementing Regulation (EU) 2016/2031 of the European Parliament and of the Council by establishing the list of priority pests (OJ L 260, 11.10.2019, p. 8).

(9) In order to ensure a proportionate approach to the phytosanitary risk posed by the specified pest, Member States should be allowed to lift the demarcation when, based on surveys, that pest is not detected in the demarcated area for at least four consecutive years.

(10) Eradication measures should be set out for elimination of the specified pest if found present in the Union territory. Those measures should be appropriate for the biology of the specified pest and based on the available scientific and technical information.

(11) In accordance with Regulation (EU) 2016/2031, each Member State is to draw up and keep up to date for each priority pest a contingency plan. Based on the experience from previous outbreaks, it is necessary to adopt specific rules implementing Article 25 of Regulation (EU) 2016/2031 in order to ensure a comprehensive contingency plan in case of any findings of the specified pest in the Union.

(12) The provisions concerning the conduct of surveys in pest-free areas on the basis of the European Food Safety Authority's Guidelines for statistically sound and risk-based surveys for *Agrilus planipennis* ([3]) should apply from 1 January 2027, in order to allow sufficient time for the competent authorities to plan and prepare the design and allocate sufficient resources for such surveys.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'specified pest' means *Agrilus planipennis* Fairmaire;

(2) 'specified plants' means plants of *Chionanthus virginicus* L. and *Fraxinus* L., other than fruits, seeds, pollen and plants in tissue culture;

(3) 'delimiting survey' means an iterative procedure used to establish the boundaries of an area considered to be infested by or free from a pest;

(4) 'specified wood and bark' means wood, isolated bark and other objects made of wood and bark, of *Chionanthus virginicus* L. and *Fraxinus* L.;

(5) 'trapping trees' means specified plants which are girdled and used to support the early detection of the specified pest.

Article 2

Surveys of the Union territory in accordance with Article 24 of Regulation (EU) 2016/2031

1. Member States shall conduct risk-based surveys for the presence of the specified pest annually in the areas of their territories where it is not known to occur.

2. The design and sampling scheme of those surveys shall allow to detect, within the Member State concerned, with a sufficiently high level of confidence, a low level of presence of the specified pest on the infested plants. They shall be based on the European Food Safety Authority's ('the Authority') Guidelines for statistically sound and risk-based surveys of *Agrilus planipennis* and shall take into account the risk of natural spread of the specified pest.

([3]) EFSA, Guidelines for statistically sound and risk-based surveys of *Agrilus planipennis*, 17 December 2020, https://doi.org/10.2903/sp.efsa.2020.EN-1983

3. The surveys shall be carried out:

(a) in open-air, natural and urban areas, stops along the major roads, railways and other transport pathways, as well as in nurseries, garden centres, trading centres for specified plants, wood and bark, hardwood sawmills, and other relevant sites, as appropriate;

(b) at appropriate times of the year with regard to the possibility to detect the specified pest, taking into account the biology of that pest, the presence and biology of the specified plants, and the scientific and technical information referred to in the Authority's Pest Survey Card on *Agrilus planipennis* ([4]).

4. The surveys shall consist of:

(a) trapping of the specified pest, which may include use of trapping trees;

(b) where appropriate, visual examination of the specified plants;

(c) in case of suspicion, sampling and testing of the specified plants and the specified wood, including cut branches, and wood packaging material; and

(d) where appropriate, use of specifically trained sniffer dogs.

Article 3

Establishment of demarcated areas

1. Where the presence of the specified pest is officially confirmed, the Member State concerned shall, without delay, establish a demarcated area consisting of:

(a) an infested zone within a radius of at least 100 m around the infested plants, including the infested plants and all specified plants which are liable to become infested ('infested zone'); and

(b) a buffer zone with a width of at least 10 km beyond the boundary of the infested zone.

2. The delimitation of the demarcated area shall take into account the scientific principles, the biology of the specified pest, the level of infestation, the particular distribution of the specified plants in the area concerned, and the evidence for establishment of the specified pest.

The initial demarcation of the infested zone shall be immediately followed by a delimiting survey, with a design and sampling scheme allowing to detect, with a 95 % level of confidence, a 1 % presence of infested plants.

The delimiting survey shall:

(a) be based on the Authority's Guidelines for statistically sound and risk-based surveys of *Agrilus planipennis*;

(b) include branch sampling or other suitable methods, capable to detect the pest before emergence.

3. Within the demarcated areas, the competent authorities shall raise public awareness concerning the threat of the specified pest and the measures adopted to prevent its further spread outside of those areas.

They shall ensure that the professional operators and the general public are aware of the delimitation of the demarcated areas.

([4]) EFSA (European Food Safety Authority), 2020. Story map for survey of *Agrilus planipennis*. EFSA supporting publication 2020: EN-1945. https://arcg.is/09S94u

4. The competent authorities may decide to reduce the radius of the buffer zone, based on information about the size of the infestation, density of specified plants, origin and age of the outbreak. In such case, they shall immediately report that reduction to the Commission and to the other Member States, and the reasons leading to it.

Article 4

Derogations from the establishment of demarcated areas

1. By way of derogation from Article 3, the competent authorities may choose not to establish a demarcated area if the following conditions are fulfilled:

(a) there is evidence that the specified pest has been introduced into the area with the plants or plant material on which it was found, and those plants were infested before their introduction into the area concerned and no multiplication of the specified pest has occurred or there is evidence that it is an isolated finding, not expected to lead to establishment of the specified pest;

(b) it is ascertained that there is no establishment of the specified pest, and the spread and successful breeding of the specified pest is not possible due to its biology, based on the results of a specific investigation and eradication measures taken.

2. Where the competent authority applies the derogation provided for in paragraph 1, it shall:

(a) take measures to ensure the prompt eradication of the specified pest and to exclude the risk of its spread;

(b) where appropriate, immediately increase the number of traps and the frequency with which the traps are checked in that area;

(c) immediately intensify the visual examinations for the presence of adults, combined with branch sampling, or other suitable detection methods, capable to detect the specified pest before its emergence;

(d) during at least one life cycle of the specified pest plus one additional year, survey an area with a width of at least 1 km around the infested plants, or the place where the specified pest was found, regularly and intensively during the flying period of the specified pest;

(e) investigate the origin of the specified pest by tracing back the plants, wood, bark and other objects associated with the specified pest, and an examination thereof for any sign of infestation, including branch sampling and targeted destructive sampling;

(f) raise public awareness of the threat of the specified pest; and

(g) take any other measure which may help eradicate the specified pest, taking account of ISPM No 9 ([5]) and applying an integrated approach in accordance with the principles set out in ISPM No 14 ([6]).

Article 5

Annual surveys in demarcated areas

In the demarcated areas, the competent authorities shall carry out intensive annual surveys, as referred to in Article 19(1) of Regulation (EU) 2016/2031, to detect the presence of the specified pest, taking into account the information referred to in the Authority's pest survey card.

([5]) Guidelines for pest eradication programmes – Reference Standard ISPM No 9 by the Secretariat of the International Plant Protection Convention, Rome. https://www.fao.org/3/x2981e/x2981e.pdf.

([6]) The use of integrated measures in a systems approach for pest risk management – Reference Standard ISPM No 14 by the Secretariat of the International Plant Protection Convention, Rome. https://www.ippc.int/en/publications/607/

The survey design shall take into account the Guidelines for statistically sound and risk-based surveys of *Agrilus planipennis*. The survey design and sampling scheme used for detection surveys shall be able to identify with at least 95 % confidence, a level of presence of the specified pest of 1 %.

The annual surveys shall be carried out in accordance with Article 2(3) and (4) in the buffer zones to detect the presence of the specified pest, and in the infested zones to monitor its presence there.

Article 6

Lifting of demarcation

The demarcation may be lifted when, based on the surveys referred to in Article 5, the specified pest is not detected in the demarcated area for at least four consecutive years.

Article 7

Eradication measures

1. After the initial demarcation of the area, and in parallel to the delimiting surveys, the competent authorities shall take all of the following measures:

(a) immediate felling of all infested plants and plants suspected to be infested at the ground level;

(b) immediate felling at the ground level of all specified plants within a radius of at least 100 m around infested plants and thorough examination of those specified plants for any sign of infestation, except in cases where the infested plants were found outside the flying period of the specified pest; in that case, the felling and removal of specified plants shall be carried out in time before the start of the next flying period;

(c) removal, examination and safe disposal of the plants felled in accordance with points (a) and (b), taking all necessary precautions to avoid spreading of the specified pest during and after felling;

(d) examination and safe disposal of the wood and bark associated with the infestation, taking all necessary precautions to avoid spreading of the specified pest;

(e) prohibition of any movement of specified plants, wood and bark out of the demarcated area;

(f) investigation of the origin of the infestation by tracing back the plants, wood, bark and other objects associated with the infestation, and examination thereof for any sign of infestation, including branch sampling and targeted destructive sampling;

(g) replacement of specified plants by other non-susceptible plant species, where appropriate;

(h) prohibition of the presence of new specified plants in the open air, in the area referred to in point (b), with the exception of the presence of trapping trees;

(i) in cases where trapping trees are used, those shall be subject to regular inspections, and be destroyed and examined before the next flying period;

(j) raising public awareness on the threat of the specified pest and the measures adopted to prevent its introduction into and spread within the Union territory, including the conditions regarding movement of specified plants, wood and bark from the demarcated area;

(k) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay eradication, in particular those related to the accessibility and adequate eradication of all plants that are infested or suspected of infestation, irrespective of their location, public or private ownership or the person or entity responsible for them; and

(l) any other measure which may contribute to the eradication of the specified pest, in accordance with International Standard for Phytosanitary Measure ('ISPM') No 9 and to applying a systems approach in accordance with the principles set out in ISPM No 14.

2. The competent authorities may decide to extend the radius referred to in paragraph 1, point (b), based on information on the size of the infestation, density of specified plants, origin and/or age of the outbreak.

3. By way of derogation from paragraph 1, point (b), where the competent authority concludes that felling is inappropriate for a limited number of individual plants, due to their particular social, cultural or environmental value, those individual plants shall be subject to a monthly individual examination for any sign of infestation. In such cases, measures alternative to felling ensuring a high level of protection shall be taken to prevent any possible spread of the specified pest from those plants.

The reasons for such conclusion and the measures taken as a result of it shall be communicated to the Commission in the report pursuant to Article 9.

4. If the results of the delimiting survey referred to in Article 3(2) show another finding for the specified pest, the competent authority shall apply all measures referred to in paragraph 1 and shall continue with the delimiting survey.

Article 8

Contingency plans

1. Member States shall, in addition to the elements listed in Article 25(2) of Regulation (EU) 2016/2031, provide in their contingency plans for the following:

(a) the actions for eradication of the specified pest, as set out in Article 7;

(b) the precautionary measures related to movements of specified plants, wood and bark within the Union territory, as set out in Annex VIII to Commission Implementing Regulation (EU) 2019/2072 ([7]);

(c) the official inspections to be carried out on movements of specified plants, wood and bark within the Union territory;

(d) the minimum resources to be made available, and the procedures for making those additional resources available, in case of a confirmed or suspected presence of the specified pest;

(e) the procedures for identifying the owners of the plants, wood and bark to be destroyed, notifying the order of removal and accessing private properties.

2. Member States shall update their contingency plans, as appropriate, by 31 December of each year.

Article 9

Annual reporting

Member States shall, by 30 April of each year, submit to the Commission and the other Member States a report on the measures taken during the preceding calendar year, and on their results, pursuant to Articles 2 to 8.

The results of the surveys carried out pursuant to Article 5 shall be submitted to the Commission using the template referred to in the Annex.

([7]) Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and of the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019 (OJ L 319, 10.12.2019, p. 1).

Article 10

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 2(2) shall apply from 1 January 2027.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5 February 2024.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

1. **Template for reporting the results of the annual surveys in demarcated areas, using statistically based approach**

1. Description of the Demarcated Area (DA)		2. Initial size of DA (ha)	3. Updated size of DA (ha)	4. Approach	5. Zone	6. Survey sites		7. Timing	A. Survey definition (input parameters for RiBESS+)															B. Sampling effort							C. Survey results						25. Comments
Name	Date of establishment					Description	Number		8. Target population			9. Epidemiological units		10. Detection methods				11. Sampling effectiveness	12. Method sensitivity	13. Risk factors (activities, locations and areas)					14. N° of epidemiological units inspected	15. N° of visual examinations	16. N° samples	17. N° of traps	18. N° of trapping sites	19. N° of tests	20. N° of other measures	21. Results			22. Notification number of the outbreaks notified, as applicable, in accordance with Implementing Regulation (EU)-2019/1715		23. Achieved confidence level	24. Design prevalence	
									Host species	Area (ha or other more relevant unit)	Inspection units	Description	Units	Visual examinations	Trapping	Testing	Other methods			Risk factor	Risk levels	N° of locations	Relative risks	Proportion of the host population							Positive	Negative	Undetermined	Number	Date			

2. **Instructions on how to fill in the template**

Explain the underlying assumptions for the survey design per pest. Summarise and justify:

— the target population, epidemiological unit and inspection units;

— the detection method and method sensitivity;

— the risk factor(s), indicating the risk levels and corresponding relative risks and proportions of host plant population.

For column 1:	Indicate the name of the geographical area, outbreak number or any information that allows identification of this demarcated area (DA) and the date when it was established.
For column 2:	Indicate the size of the DA before the start of the survey.
For column 3:	Indicate the size of the DA after the survey.
For column 4:	Indicate the approach: Eradication or Containment. Please, include as many rows as necessary, depending on the number of DA per pest and the approaches these areas are subject to.
For column 5:	Indicate the zone of the DA where the survey was carried out, including as many rows as necessary: infested zone (IZ) or buffer zone (BZ), using separate rows. Where applicable, indicate the area of the IZ where the survey was carried out (e.g. last 20 km adjacent to the BZ, around nurseries) in different rows.
For column 6:	Indicate the number and the description of the survey sites, by choosing one of the following entries for the description: 1. Open air (production area): 1.1 field (arable, pasture); 1.2. orchard/vineyard; 1.3. nursery; 1.4. forest; 2. Open air (other): 2.1. private gardens; 2.2. public sites; 2.3. conservation area; 2.4. wild plants in areas other than conservation areas; 2.5. other, with specification of the particular case (e.g. garden centre, commercial sites that use wood packaging material, wood industry, wetlands, irrigation and drainage networks); 3. Physically closed conditions: 3.1. greenhouse; 3.2. private site, other than greenhouse; 3.3. public site, other than greenhouse; 3.4. other, with specification of the particular case (e.g. garden centre, commercial sites that use wood packaging material, wood industry).
For column 7:	Indicate the months of the year when the surveys were carried out.
For column 8:	Indicate the chosen target population providing accordingly the list of host species/genera and area covered. The target population is defined as the ensemble of inspection units. Its size is defined typically for agricultural areas as hectares, but could be lots, fields, greenhouses etc. Please justify the choice made in the underlying assumptions. Indicate the inspection units surveyed. 'Inspection unit' means plants, plant parts, commodities, materials, pest vectors that had been scrutinised for identifying and detecting the pests.
For column 9:	Indicate the epidemiological units surveyed, indicating its description and unit of measurement. 'Epidemiological unit' means a homogeneous area where the interactions between the pest, the host plants and the abiotic and biotic factors and conditions would result in the same epidemiology, should the pest be present. The epidemiological units are a subdivision of the target population that are homogenous in terms of epidemiology with at least one host plant. In some cases, the whole host population in a region/area/country may be defined as an epidemiological unit. They could be the Nomenclature of territorial units for statistics (NUTS) regions, urban areas, forests, rose gardens or farms, or hectares. The choice of the epidemiological units has to be justified in the underlying assumptions.

For column 10:	Indicate the methods used during the survey including the number of activities in each case, depending on the specific legal requirements of each pest. Indicate with N/A when the information of certain column is not available.
For column 11:	Indicate an estimation of the sampling effectiveness. Sampling effectiveness means the probability of selecting infected plant parts from an infected plant. For vectors, it is the effectiveness of the method to capture a positive vector when it is present in the survey area. For soil, it is the effectiveness of selecting a soil sample containing the pest when the pest is present in the survey area.
For column 12:	'Method sensitivity' means the probability of a method to correctly detect pest presence. The method sensitivity is defined as the probability that a truly positive host tests positive. It is the multiplication of the sampling effectiveness (i.e. probability of selecting infected plant parts from an infected plant) by the diagnostic sensitivity (characterised by the visual inspection and/or laboratory test used in the identification process).
For column 13:	Provide the risk factors in different rows, using as many rows as necessary. For each risk factor indicate the risk level and corresponding relative risk and proportion of host population.
For column B:	Indicate the details of the survey, depending on the specific legal requirements for each pest. Indicate with N/A when the information of certain column is not applicable. The information to be provided in these columns is related to the information included in the column 10 'Detection methods'.
For column 18:	Indicate the number of trapping sites in case this number differs from the number of traps (column 17) (e.g. the same trap is used in different places).
For column 21:	Indicate the number of samples found positive, negative or undetermined. 'Undetermined' are those analysed samples for which no result was obtained due to different factors (e.g. below detection level, unprocessed sample-not identified, old).
For column 22:	Indicate the outbreak notifications of the year when the survey took place. The outbreak notification number does not need to be included when the competent authority has decided that the finding is one of the cases referred to in Article 14(2), Article 15(2) or Article 16 of Regulation (EU) 2016/2031. In this case, indicate the reason for not providing this information in column 25 ('Comments').
For column 23:	Indicate the sensitivity of the survey, as defined in International Standard for Phytosanitary Measures (ISPM) 31. This value of the achieved confidence level of pest freedom is calculated based on the examinations (and/or samples) performed given the method sensitivity and the design prevalence.
For column 24:	Indicate the design prevalence based on a pre-survey estimate of the likely actual prevalence of the pest in the field. The design prevalence is set as a goal of the survey and corresponds to the compromise the risk managers are making between the risk of having the pest and the resources available for the survey. Typically, for a detection survey a value of 1 % is set.