Commission Implementing Directive (EU) 2020/177 of 11 February 2020 amending Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/55/EC, 2002/56/EC and 2002/57/EC, Commission Directives 93/49/EEC and 93/61/EEC and Implementing Directives 2014/21/EU and 2014/98/EU as regards pests of plants on seeds and other plant reproductive material (Text with EEA relevance)

COMMISSION IMPLEMENTING DIRECTIVE (EU) 2020/177

of 11 February 2020

amending Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/55/EC, 2002/56/EC and 2002/57/EC, Commission Directives 93/49/EEC and 93/61/EEC and Implementing Directives 2014/21/EU and 2014/98/EU as regards pests of plants on seeds and other plant reproductive material

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed[(1)], and in particular Article 21a thereof,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed[(2)], and in particular Article 21a thereof,

Having regard to Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine[(3)], and in particular Article 17a thereof,

Having regard to Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants[(4)], and in particular Article 5(5) thereof,

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed[(5)], and in particular Article 45 thereof,

Having regard to Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes[(6)], and in particular Articles 18(c) and 24 thereof,

Having regard to Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants[(7)], and in particular Article 24 thereof,

Having regard to Council Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed[(8)], and in particular Article 4 thereof,

Having regard to Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production[(9)], and in particular Article 4 thereof,

Whereas:

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(1) Regulation (EU) 2016/2031 of the European Parliament and of the Council[10] is to apply from 14 December 2019. In order for its provisions to become fully effective, implementing rules are to be adopted regulating the pests, plants, plant products and other objects, as well as respective requirements needed to protect the Union territory from phytosanitary risks.

(2) In view of this, specific rules should be set out in order to list the Union regulated non-quarantine pests ('RNQPs'), as well as measures to prevent their presence on the respective plants for planting.

(3) The pests listed in Part A of Annex I and Section I of Part A of Annex II to Council Directive 2000/29/EC[11] have been reassessed by the European Food Safety Authority ('EFSA') in order to set up the list of Union quarantine pests pursuant to Article 5 of Regulation (EU) 2016/2031. The reassessment was necessary to update the phytosanitary status of those pests in accordance with the most recent technical and scientific developments, and to assess their compliance with the criteria of Article 3 in respect of the Union territory and Section 1 of Annex I to that Regulation.

(4) The European and Mediterranean Plant Protection Organisation (EPPO) has made a reassessment of the pests listed in Section II of Part A of Annex II to Directive 2000/29/EC, the crops under point 3 and the pests under point 6 of Annex I to Directive 66/401/EEC, as well as the pests under point 3 of Annex II to Directive 66/402/EEC, Annex I and point 4 of Annex II to Directive 68/193/EEC, as well as the pests listed in the acts adopted pursuant to Article 5(5) of Directive 98/56/EC, Annex II to Directive 2002/55/EC, Annexes I and II to Directive 2002/56/EC, as well as the pests listed in the acts adopted pursuant to point (c) of Article 18 of that Directive, point 4 of Annex I and point 5 of Part I of Annex II to Directive 2002/57/EC, and Article 4 of Directive 2008/72/EC.

(5) As a result of that reassessment, the relevant RNQPs, the respective plants for planting and thresholds for the presence of RNQPs on the respective plants for planting are listed in Annex IV to Commission Implementing Regulation (EU) 2019/2072[12]. Moreover, measures to prevent the presence of RNQPs are set out in Annex V to that Implementing Regulation.

(6) It is appropriate for Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 93/49/EEC, 93/61/EEC and Implementing Directives 2014/21/EU and 2014/98/EU to provide for additional measures, as regards the RNQPs relevant for their scope of application.

(7) Those Directives should therefore be updated to adapt or remove provisions concerning some pests which qualify as RNQPs in accordance with Regulation (EU) 2016/2031.

(8) For reasons of clarity and adaptation to the new legal framework, it should be indicated in those Directives that the seed or other plant reproductive material, as applicable, is also to comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and regulated non-quarantine pests laid down in the implementing acts adopted pursuant to Article 5(2), Article 32(3), Article 37(2), Article 37(4), Article 40(2), Article 41(2), Article 53(2), Article 54(2), Article 72(1), Article 73, Article 79(2) and Article 80(2) of Regulation (EU) 2016/2031, as well as the measures adopted

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pursuant to Article 30(1) of that Regulation. That indication should also be included in Directive 66/401/EEC, although no further requirements are set out there for specific RNQPs.

(9) For reasons of consistency and harmonisation of the different terms used, it should be indicated in those Directives that the seed or the other plant reproductive material, as applicable, is to be practically free from any pests which reduce the usefulness and quality of the seed or other plant reproductive material, as applicable.

(10) In particular, the references to pests and the respective thresholds in Annexes I and II to Directive 66/402/EEC should be updated to ensure consistency with the listing of the respective RNQPs and thresholds pursuant to Annex IV to Implementing Regulation (EU) 2019/2072.

(11) Directive 68/193/EEC should be updated to include new requirements reflecting the development of scientific knowledge and techniques with regard to the production of vine, and to include new requirements on the basis of the EPPO assessment of RNQPs. Those requirements should replace the existing health requirements for nurseries, and include soil requirements and production conditions for nurseries, requirements with regard to the production sites, inspections, lists of RNQPs and the respective measures to prevent their presence. Annexes I and II to that Directive should therefore be amended accordingly.

(12) The lists of RNQPs, pests and plants set out in the Annexes to Directives 93/49/EEC and 93/61/EEC should be updated and replaced by new lists, to ensure consistency with the respective RNQPs, plants for planting and thresholds as listed in Annex IV to Implementing Regulation (EU) 2019/2072.

(13) It should be further laid down in those Directives that the respective propagating material should, at least on visual inspection, be practically free at the place of production from all pests listed in the respective Annexes of those Directives with regards to the respective propagating material. This is necessary to ensure an approach at the production level, which is less strict than that concerning the requirements for the propagating material that is marketed.

(14) The list of insects set out in point 3(b) of Annex II to Directive 2002/55/EC should be replaced by a new list to ensure consistency with the respective RNQPs, plants for planting and thresholds as listed in Annex IV to Implementing Regulation (EU) 2019/2072.

(15) The pests referred to in Annexes I and II to Directive 2002/56/EC should be replaced by a new list to ensure consistency with the respective RNQPs and thresholds for basic seed potatoes and certified seed potatoes, as listed in Annex IV to Implementing Regulation (EU) 2019/2072.

(16) The references to pests, the respective thresholds as well as certain conditions concerning the respective plants for planting in the Annex to Implementing Directive 2014/21/EU should be amended accordingly.

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(17) The pests referred to in Annexes I and II to Directive 2002/57/EC should be replaced by a new list to ensure consistency with the respective RNQPs, plants for planting and thresholds as listed in Annex IV of Implementing Regulation (EU) 2019/2072.

(18) EPPO further concluded that two soil-borne pests, namely *Phialophora gregata* and *Phytophthora megasperma*, which could be transmitted via soil to soya bean seed, should not be listed as RNQPs. Therefore, inert matter no longer presents a risk in relation to these pests and the inert matter requirement for soya bean seed should be excluded from the scope of that Directive.

(19) Implementing Directive 2014/98/EU should be further updated to include new requirements reflecting the developments in scientific and technical knowledge with regard to the production of fruit plant propagating material and fruit plants, and on the basis of the EPPO assessment of RNQPs. That update should comprise the existing health requirements for the different categories of propagating material and incorporate new RNQPs, as well as measures for those RNQPs, and include requirements with regard to the production site, place of production or area, in order to prevent the presence of all listed RNQPs on the respective plants for planting.

(20) At the time of adoption of Implementing Directive 2014/98/EU, there was no clear distinction between material present in production sites and propagating material intended for marketing. With regard to the health requirements for the different categories of propagating material in Implementing Directive 2014/98/EU, a clear distinction should be made between the health requirements for mother plants and propagating material present in production sites, and propagating material that is intended for marketing. Propagating material intended for marketing should be free upon visual inspection from all RNQPs which are listed in Annex IV to Implementing Regulation (EU) 2019/2072 for the relevant genera and species concerned. For this reason, Annex IV to Implementing Regulation (EU) 2019/2072 contains a zero tolerance threshold for all RNQPs. Mother plants and propagating material of the basic, certified and *Conformitas Agraria Communitatis* (CAC) categories present in production sites may show symptoms of certain RNQPs on the condition that appropriate measures have been taken on the mother plants and propagating material concerned. Those measures may concern the removal of the mother plants and propagating material from the vicinity of other propagating material of the same category, or rogueing and, where appropriate, destruction of the material concerned.

(21) Implementing Directive 2014/98/EU refers to thresholds in Articles 10, 16, and 21, and in Part B of Annex I thereto, without a reference to which type of material those thresholds apply. For the purpose of clarity, Annex IV to Implementing Regulation (EU) 2019/2072 contains a zero tolerance threshold for all RNQPs on fruit plant propagating material and fruit plants which are intended for marketing. Articles 10, 16, and 21 of Implementing Directive 2014/98/EU should be updated accordingly in line with that approach, and thresholds for RNQPs should be removed from Part B of Annex I.

(22) New RNQPs should be included in Annexes I and II to Implementing Directive 2014/98/EU, whereas certain names of fruit species should be updated in Annex III thereto.

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(23) Moreover, the requirements set out in Annex IV to Implementing Directive 2014/98/EU should be updated taking into account the assessment of EPPO.

(24) This Directive should enter into force on the third day following that of its publication in the *Official Journal of the European Union,* so as to allow to the competent authorities and the professional operators appropriate time to prepare for its transposition and application.

(25) In order to grant the competent authorities and the professional operators the necessary time to comply with the provisions of this Directive, it should apply from 1 June 2020.

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendment of Directive 66/401/EEC

Annexes I and II to Directive 66/401/EEC are amended as set out in Annex I to this Directive.

Article 2

Amendment of Directive 66/402/EEC

Annexes I and II to Directive 66/402/EEC are amended as set out in Annex II to this Directive.

Article 3

Amendment of Directive 68/193/EEC

Annexes I and II to Directive 68/193/EEC are amended as set out in Annex III to this Directive.

Article 4

Amendment of Directive 93/49/EEC

Directive 93/49/EEC is amended as follows:

(1) Article 3 is replaced by the following:

Article 3

The propagating material of ornamental plants shall, at least on visual inspection, be found at the place of production to be practically free from all pests listed in the Annex with regard to the respective propagating material of ornamental plants.