



Brussels, **XXX**
[...](2021) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

laying down rules for the application of Directive (EU) 2019/883 of the European Parliament and of the Council as regards the method to be used for the calculation of sufficient dedicated storage capacity

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

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THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC¹, and in particular Article 7(4), second subparagraph, thereof,

Whereas:

- (1) Article 7(4), points (a) and (b), of Directive (EU) 2019/883 establishes an exception from the general obligation to deliver all waste carried on board to the port of call for ships that have sufficient dedicated storage capacity for all waste that has been accumulated and will be accumulated during their intended voyage until the next port of call.
- (2) By applying the calculation method defined in this Regulation, Member States should be able to implement the exceptions from the general obligation to deliver all waste carried on board with respect to availability of sufficient storage space in a harmonised way.
- (3) The calculation method should not be applied to waste disposal under Annex II to the International Convention for the Prevention of Pollution from Ships ('MARPOL Convention'). As set out in Annex II to the MARPOL Convention, waste disposal is regulated by the MARPOL Convention and the delivery of such waste is either mandatory at the port where cargo is unloaded before a new cargo is loaded or discharge at sea is permitted under certain conditions. Depending on the substance, delivery of cargo residues regulated by Annex II to the MARPOL Convention is mandatory before departure, subject to the procedures and control established under Regulations 13 and 16 of that Annex. Cargo residues under Annex II to the MARPOL Convention containing category X substances, high-viscosity persistent floating Y substances and high-viscosity or solidifying Y substances, are regulated by mandatory pre-wash and requirements to deliver such waste in a port reception facility set out in Regulations 13 and 16 of Annex II to the MARPOL Convention.
- (4) The calculation method should not be applied to passively fished waste. Dedicated storage for this type of waste on board does not always exist and delivery of all passively fished waste is incentivised by the cost recovery system set out in Article 8(2), point (d), of Directive (EU) 2019/883.

¹ OJ L 151, 7.6.2019, p. 116.

- (5) In order to provide for uniform conditions for the application of the exemptions to the waste delivery obligation set out in Article 7(4), points (a) and (b), of Directive (EU) 2019/883, it is indispensable that Member States apply a harmonized methodology. Implementing acts adopted pursuant to Directive (EU) 2019/883 should therefore take the form of implementing regulations.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Committee on Safe Seas and Prevention of Pollution from Ships,

HAS ADOPTED THIS REGULATION:

Article 1

1. Member States shall calculate the sufficient dedicated storage capacity for the application of Article 7(4), points (a) and (b), and Article 9 of Directive (EU) 2019/883 by using the method set out in Annex I to this Regulation.
2. For the purpose of verifying the information provided in accordance with Annex 2 to Directive (EU) 2019/883, by estimating the on-board generation of different waste types, Member States shall take into account the waste generation rates set out in Annex II to this Regulation.
3. In addition to the waste generation rates set out in Annex II to this Regulation, Member States may use one or both of the following criteria to determine estimates for the on-board generation of different waste types:
 - (a) historic records for generated waste, based on advance waste notification forms and waste delivery receipts available for the ship in question;
 - (b) on-board inspections obtaining information on previous waste generation rates, details of on-board waste management and equipment specific or trading area specific information affecting the actual waste generation rate.

Article 2

The method for calculating the sufficient dedicated storage capacity, set out in Annex I to this Regulation, shall not be applicable to the following waste types:

- (a) waste types under Annex II to the MARPOL Convention;
- (b) passively fished waste.

Article 3

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

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

Done at Brussels,

For the Commission
The President
[...]

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