

COMMISSION IMPLEMENTING REGULATION (EU) 2022/90**of 21 January 2022****laying down rules for the application of Directive (EU) 2019/883 of the European Parliament and of the Council as regards the detailed elements of the Union risk-based targeting mechanism for selecting ships for inspection****(Text with EEA relevance)**

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/EC ⁽¹⁾, and in particular Article 11(2), second subparagraph, thereof,

Whereas:

- (1) Effective enforcement of the obligation to deliver waste to port reception facilities is paramount to effectively address the problem of marine litter and other waste from shipping entering the marine environment.
- (2) A single Union risk-based targeting mechanism should provide for uniform conditions for selecting ships for inspection in accordance with Article 11(2) of Directive (EU) 2019/883.
- (3) By establishing the Union risk-based targeting mechanism, the relevant authorities in the Member States are to have a supporting tool to fulfil the inspection commitment in accordance with Article 11(1) of Directive (EU) 2019/883.
- (4) In order to assess the risk that a ship is not complying with the obligations established in Directive (EU) 2019/883, several parameters should be taken into account, which in conjunction provide a clear indication of such risk. Those parameters should be: the non-compliance or indications of non-compliance with the requirements for the delivery of waste; the period of time elapsed since the last inspection; the existence of previous reports of non-compliance by the relevant port authorities; the previous and the next port of call; the existence of an exemption for that ship; and the information included on SafeSeaNet and in THETIS-EU.
- (5) In order to provide for uniform conditions for the selection of ships for inspection, it is indispensable that Member States apply a harmonized methodology. Implementing acts adopted pursuant Directive (EU) 2019/883 should therefore take the form of implementing regulations.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purposes of inspections, Member States shall classify the ships referred to in Article 3(1), point (a), of Directive (EU) 2019/883, into the following risk level categories:

- (a) Risk level 1 (high risk);
- (b) Risk level 2 (medium risk);
- (c) Risk level 3 (low risk);

⁽¹⁾ OJ L 151, 7.6.2019, p. 116.

(d) Risk level 4 (minimum risk).

2. The risk level category for each ship shall be determined on the basis of the risk parameters set out in Table 1 of the Annex.

3. The risk level parameters set out in Table 1 of the Annex shall be applied following the methodology referred to in points 1 to 4 of the Annex.

Article 2

When complying with the inspection commitments set out in Article 11 of Directive (EU) 2019/883, Member States shall comply with the following requirements:

(a) give priority to the inspection of ships with a higher risk level category;

(b) randomly select for inspection at least 1 % of number of ships to be inspected every year.

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, 21 January 2022.

For the Commission
The President
Ursula VON DER LEYEN

Methodology:

1. The risk parameters set out in Table 1 shall be used to determine the risk level of a vessel.
2. Each risk parameter set out in Table 1 is assigned a different colour code representing a risk level: red (high), orange (medium) or yellow (low).
3. The assignment of the risk level to a ship on the basis of the alerts for the risks parameters in Table 1 shall be based on the criteria set out in Table 2.
4. In order to apply several concurrent active alerts for assigning the risk levels set out in Table 2, the conversion factors set out in Table 3 may be applied.

Table 1

Risk parameters

Risk parameter number	Risk level of the alert (Colour code)	Risk parameter description	Criteria for activating an alert for the risk parameter	Criteria for deactivating the alert for the risk parameter
1	Orange	Non-compliance with the advanced waste notification requirements set out in Article 6 of Directive (EU) 2019/883.	The alert is activated if advance waste notification has not been sent or has not contained mandatory information.	The alert is computed to Port A based on the advance waste notification sent to Port A. The alert must be reassessed at each Port.
2	Orange	Information provided by the operator, agent or master in accordance with Article 6 of Directive (EU) 2019/883.	The alert is activated if validity checks of advance waste notification content reveal that the ship might not be compliant with the Directive.	The alert is computed to Port A based on the advance waste notification sent to Port A. The alert must be reassessed at each Port.
3	Orange	Date of the previous inspections carried out in accordance with Article 10 of Directive (EU) 2019/883.	The alert is activated if the ship was not inspected in accordance with Article 10 of Directive (EU) 2019/883 in the previous 12 months. Note: This alert should only be active after 28 June 2022.	The alert is deactivated after an inspection has been recorded in accordance with Article 14(2), point (a), of Directive (EU) 2019/883.
4	Red	Existing report(s) by Port Reception Facilities inspection authorities, port authorities or other competent bodies indicating that the ship has not complied with Article 7 of Directive (EU) 2019/883.	The alert is activated manually in THETIS-EU by Port Reception Facilities inspectors.	The alert is deactivated after an inspection is concluded (status 'Inspected') without non-compliances.

5	Orange	Port Reception Facilities Non-Compliances Alert	Alert activated if ship has been identified with Port Reception Facilities non-compliances within the last 6 months, with a relevant report in THETIS-EU.	The alert is deactivated after an inspection is concluded (status 'Inspected') without non-compliances.
6	Orange	Sufficient Dedicated Storage	The alert is activated if the dedicated storage on-board is not considered sufficient according to the criteria used for the application of Article 8(4)(b)	The alert is computed to Port A based on the advance waste notification sent to Port A. The alert must be reassessed at each Port.
7	Yellow	Next Port Of Call	Considered to increase risk level if non-EU or unknown. For the computation of this alert, ports located in Iceland, Norway, United Kingdom (including Isle of Man, Channel Islands and Gibraltar) and Russian ports located in the Baltic Sea are to be treated as EU.	The alert is computed to Port A based on the advance waste notification sent to Port A. The alert must be reassessed at each Port.
8	Yellow	Previous Port Of Call	Considered to increase risk level if non-EU. For the computation of this alert, ports located in Iceland, Norway, United Kingdom (including Isle of Man, Channel Islands and Gibraltar) and Russian ports located in the Baltic Sea are to be treated as EU.	The alert is computed to Port A based on the advance waste notification sent to Port A. The alert must be reassessed at each Port.
9	Yellow	Exemption Alert	The alert is activated if the ship has an exemption and has not been inspected for 12 months, to ensure that these ships will be included in the inspections.	The alert must be reassessed at each Port.
10	Red	Incident Type Waste Alert	The alert is activated if an Incident Report of type 'waste' has been issued in SafeSeaNet for that vessel in a previous port.	The alert is deactivated after an inspection is concluded (status 'Inspected') and has taken place without non-compliances or after the incident is inactive at SafeSeaNet

Table 2

Assignment of risk levels based on number of active inputs

Criteria for risk levels	
Risk level 1	One or more red alerts
Risk level 2	One or more ⁽¹⁾ orange alerts
Risk level 3	One or more ⁽¹⁾ yellow alerts
Risk level 4	No active alert

⁽¹⁾ Up to the number that triggers the application of the conversion factor.

Table 3

Conversion factors to combine several concurrent active parameters for application of Table 2 risk levels

Conversion factor	
Three yellow alerts	One orange alert
Three orange alerts	One red alert