Commission Implementing Regulation (EU) 2018/258 of 21 February 2018 amending Implementing Regulation (EU) No 725/2011 for the purpose of adjusting it to the change in the regulatory test procedure and simplifying the administrative procedures for application and certification (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2018/258

of 21 February 2018

amending Implementing Regulation (EU) No 725/2011 for the purpose of adjusting it to the change in the regulatory test procedure and simplifying the administrative procedures for application and certification

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO_2 emissions from light-duty vehicles[(1)], and in particular Article 12(2) thereof,

Whereas:

(1) The Worldwide Harmonized Light Vehicle Test Procedure (WLTP) set out in Commission Regulation (EU) 2017/1151[(2)] was adopted by the Commission on 1 June 2017. The WLTP replaces the New European Driving Cycle (NEDC) set out in Annex XII to Commission Regulation (EC) No 692/2008[(3)]. From 2021, compliance with the CO_2 emissions targets set out in Regulation (EC) No 443/2009 are to be verified on the basis of CO_2 emissions determined in accordance with the WLTP procedure. From that date, also CO_2 eco-innovation savings should be determined by reference to the WLTP.

(2) To reflect the change in the regulatory test procedure and taking into account the procedure to correlate the WLTP CO_2 values into the corresponding NEDC CO_2 values, set out in Commission Implementing Regulation (EU) 2017/1153[(4)], it is necessary to amend Commission Implementing Regulation (EU) No 725/2011[(5)].

(3) To ensure a smooth transition from the NEDC to the WLTP, it should be possible to submit an application for the approval of an innovative technology as an eco-innovation by reference to the NEDC until 31 December 2019, and to the WLTP from the entry into force of this Regulation.

(4) While the Commission has granted more than twenty approvals of eco-innovations, the deployment by manufacturers of those technologies in the European Union vehicle fleet has until 2017 been quite limited. In order to promote a more extensive deployment of those technologies and obtain the highest potential for reducing CO_2 emissions from passenger cars, the approval and certification process should be simplified.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/258. (See end of Document for details)*

(5) Lowering the savings threshold to 0,5 g CO_2/km is likely to promote a wider deployment of innovative technologies capable of reducing CO_2 emissions. However, in order to ensure that those CO_2 savings are actually achieved, it is essential that they are determined very accurately. It is therefore necessary to assess and quantify the uncertainty that is linked to the methods used for demonstrating the savings and to take that uncertainty into account when the CO_2 savings are certified by the approval authority. It is appropriate to align the change of the savings threshold with the introduction of the WLTP, and as a consequence the new threshold should apply for the purpose of applications made by reference to the WLTP.

(6) For the purpose of demonstrating the CO_2 savings, component testing should be possible in those cases where the savings are not vehicle dependent in order to improve the accuracy and simplify the determination of the CO_2 savings.

(7) In order to simplify the certification of CO_2 savings, it should be possible for the applicant to propose, in addition to a detailed testing methodology for determining the savings, a simplified evaluation method or pre-defined CO_2 savings in the application for the approval of an innovative technology as an eco-innovation. Where such simplified methods or pre-defined CO_2 savings are used, the savings certified by approval authorities should be determined in a conservative way reflecting the lowest level of savings demonstrated.

(8) A technology that has already for some time been widely available on the market cannot be considered innovative within the meaning of Article 12 of Regulation (EC) No 443/2009 and should not be eligible as an eco-innovation. In order to create the right incentives, it is therefore appropriate to replace the 2009 reference year by a dynamic reference year as a baseline for determining the innovativeness of a technology. The new dynamic reference year should apply for applications submitted from 1 January 2020.

(9) Where the Commission finds, based on the experience gained from assessing a number of innovative technologies with the same characteristics, that it has been satisfactorily and conclusively demonstrated that such technologies meet the eligibility criteria referred to in Article 12 of Regulation (EC) No 443/2009, or in the case an innovative technology is not dependent on manufacturer specific vehicle parameters, it should be possible to approve the innovative technology as an eco-innovation by a decision which provides all manufacturers with the possibility to certify CO_2 savings by reference to that decision provided that the conditions of the decision are met.

(10) Some innovative technologies require strong statistical evidence to support the assumptions given in the application for the approval of an innovative technology as an eco-innovation and the parameters proposed in the testing methodology. In order to have the widest possible data sets, it should be possible for a group of manufacturers or suppliers to apply together. Where that is the case, the group should have the possibility to submit an application including several verification reports, where that is necessary for confidentiality or competition reasons.

(11) For the purpose of ensuring that the certified CO_2 savings that are used by manufacturers for target compliance purposes are correct, the Commission should be in a position to

react swiftly and notify manufacturers where it detects or is informed of any deviations or inconsistences in the testing methodology or the innovative technology which could affect the level of the certified savings.

(12) Experience shows that it may be necessary to adjust the testing methodologies set out in the decisions approving an eco-innovation, inter alia, to take into account technical developments, or to extend the scope of the approval decision to a wider range of vehicles. It should therefore be possible for both the original applicant and for the Commission to initiate an amendment of those decisions.

(13) Implementing Regulation (EU) No 725/2011 should therefore be amended accordingly.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 725/2011 is amended as follows:

(1) Article 2 is amended as follows:

(a) in paragraph 2, the first sentence is replaced by the following:

An application for the approval of an innovative technology as an eco-innovation may be made under this Regulation in respect of a technology, provided that the following conditions are met:;

(b) in paragraph 2, point (a) is replaced by the following:

(a) it had been fitted in 3 % or less of all new passenger cars registered in 2009 for applications submitted until 31 December 2019, or in 3 % or less of all new passenger cars registered in the year n-4, n being the year of application, for applications submitted from 1 January 2020;;

(c) the following paragraph 3 is added:

3. An application for the approval of an innovative technology as an eco-innovation may be made by reference to the standard test procedure in accordance with the following:

a to the New European Driving Cycle referred to in Annex XII to Regulation (EC) No 692/2008 until 31 December 2019;

b to the Worldwide Harmonised Light Vehicle Test Procedure (WLTP) referred to in Commission Regulation (EU) 2017/1151[6] from 14 March 2018.;

(2) Article 3 is amended as follows:

(i) point (c) is replaced by the following:

(c) "applicant" means the manufacturer or supplier, or a group of manufacturers or suppliers, submitting an application for the approval of an innovative technology as an eco-innovation;;

(ii) the following point (f) is added:

(f) "requester" means a manufacturer or supplier or a group of manufacturers or suppliers that requests the amendment of a decision approving an innovative technology as an eco-innovation.;

(3) Article 4 is amended as follows:

(a) the title is replaced by the following:
Article 4

Application for the approval of an innovative technology as an eco-innovation;

(b) paragraph 2 is amended as follows:

(i) the introductory sentence is replaced by the following:

An application for the approval of an innovative technology as an eco-innovation shall include the following:;

(ii) point (e) is replaced by the following:

(e) a methodology to be used for demonstrating the CO_2 emissions reductions of the innovative technology, including a reference to the applicable standard test procedure in accordance with Article 2(3), or where such methodology has already been approved by the Commission, a reference to the approved methodology;;

(iii) the following point (ea) is inserted:

(ea) where appropriate, and in addition to the methodology referred to in point (e), a simplified method for evaluating the CO_2 savings to be certified or pre-defined CO_2 savings values to be used for the purpose of certification of all vehicles fitted with the innovative technology;;

(iv) in point (f) points (i) and (ii) are replaced by the following:

(i) the emissions reduction achieved by the innovative technology as determined in accordance with points (e) and, where applicable, (ea) meets the relevant threshold specified in Article 9(1), taking into account any deterioration over time of the technology;

(ii) the CO_2 savings of the innovative technology are not or only partially covered by the standard test procedure CO_2 measurement as referred to in point (c) of Article 12(2) of Regulation (EC) No 443/2009 and as specified in Article 2(3) of this Regulation;;

(v) the following point (iv) is added:

(iv) the CO_2 reduction value to be attributed to a vehicle at the moment of certification using the simplified evaluation method or by way of pre-defined CO_2 savings values as referred to in point (ea), is lower or equal to the emissions reduction achieved by the innovative technology as determined using the

testing methodology referred to in point (e), including any possible interactions with other approved eco-innovations.;

(4) Article 5 is amended as follows:

(a) the title is replaced by the following:
Article 5

Baseline and eco-innovation;

(b) in paragraph 1, points (a) and (b) are replaced by the following:

(a) an eco-innovation vehicle that shall be fitted with the innovative technology, or, where appropriate, the innovative technology as a stand-alone component;

(b) a baseline vehicle that shall not be fitted with the innovative technology but that is in all other aspects identical to the eco-innovation vehicle, or, where appropriate, a baseline technology as a stand-alone component.;

(c) paragraph 2 is replaced by the following:

2. If the applicant considers that the information referred to in Articles 8 and 9 can be demonstrated by other means than those referred to in paragraph 1, the application for the approval of an innovative technology as an eco-innovation shall include the necessary details justifying that conclusion and a methodology providing equivalent results.;

(d) the following paragraph 3 is added:

3. Where the application for the approval of an innovative technology as an eco-innovation is made by reference to the WLTP as referred to in Article 2(3)(b), the baseline vehicle shall be the vehicle within the interpolation family which represents the worst case for the purpose of demonstrating the eco-innovation savings.

In the case referred to in the second subparagraph of point 1.2.3.1 of sub-Annex 6 to Annex XXI to Regulation (EU) 2017/1151, the baseline vehicle shall be the test vehicle H.

The choice of baseline vehicle shall be supported by strong and independent statistical evidence on the basis of which verifiable assumptions about the appropriateness and representativeness of the baseline vehicle can be made.;

(5) Article 7 is amended as follows:

(a) the following paragraph 1a is added:

1a. Where the applicant is a group of manufacturers or suppliers, the following conditions apply:

a the independent and certified body shall carry out the verifications referred to in points (a) to (e) of paragraph 2 in relation to each member of the applicant group, where relevant, depending on the content of the application for the approval of an innovative technology as an eco-innovation;