Commission Delegated Regulation (EU) No 114/2013 of 6 November 2012 supplementing Regulation (EU) No 510/2011 of the European Parliament and of the Council with regard to rules for the application for a derogation from the specific CO2 emissions targets for new light commercial vehicles (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) No 114/2013

of 6 November 2012

supplementing Regulation (EU) No 510/2011 of the European Parliament and of the Council with regard to rules for the application for a derogation from the specific CO_2 emissions targets for new light commercial vehicles

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO_2 emissions from light-duty vehicles[(1)], and in particular Article 11(7) thereof,

Whereas:

(1) According to Article 11 of Regulation (EU) No 510/2011 small-volume manufacturers (hereinafter 'applicants') may apply for alternative emissions reduction targets that must be consistent with their reduction potential, including the economic and technological potential to reduce their specific emissions of CO_2, and take into account the characteristics of the market for the types of new light commercial vehicles concerned.

(2) In determining the applicant's reduction potential, the applicant's economic and technological potential should be assessed. For that purpose the applicant should provide detailed information on its economic activities as well as information on CO_2 reducing technologies used in light commercial vehicles. The information requested includes data that is readily available to the applicant and should not entail an additional administrative burden.

(3) In order to provide the applicants with a clear baseline to be used for setting the specific emissions targets, it is appropriate to use the most recent available data regarding average specific CO_2 emissions in 2010. Where those data do not exist the target should be compared to the data regarding average specific CO_2 emissions in the following calendar year closest to 2010.

(4) In order to facilitate the application, a list of manufacturers and their average specific CO_2 emissions in the Union in 2010 should be provided. The list has been drawn up following a formal consultation with the Member States and the main stakeholders in

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the group of experts for policy development and implementation of CO_2 from road vehicles on 9 July 2012.

(5) In order to take into account the limited amount of products offered by some applicants and resulting limited scope for distribution of the effort to reduce average specific CO_2 emissions over the fleet, the applicants should be allowed to choose between a single yearly specific emission target for the period of derogation or different yearly targets, resulting in a reduction from the 2010 baseline at the end of the derogation period.

(6) In accordance with the exception from the right to public access to documents set out in Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents[(2)] certain information contained in the application for derogation should be exempted from public access where disclosure of this information would undermine the protection of commercial interest, in particular information on the applicant's product planning, expected costs and impacts on the profitability of the company. The decisions granting derogations will be published by the Commission on the internet,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation specifies the information to be provided by applicants for the purpose of demonstrating that the conditions for a derogation pursuant to Article 11(1) of Regulation (EU) No 510/2011 are satisfied.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to the definitions set out in Articles 2 and 3 of Regulation (EU) No 510/2011:

(1) 'applicant' means a manufacturer within the meaning of Article 11(1) of Regulation (EU) No 510/2011;

(2) 'vehicle characteristics' means the features of the vehicle, including mass, its specific CO_2 emissions, the number of seats, engine performance, power to mass ratio and top speed;

(3) 'characteristics of the market' means information on vehicle characteristics, and names and price ranges of light commercial vehicles directly competing with the vehicles for which a derogation is sought;

(4) 'own production facility' means a manufacturing or assembly plant used solely by the applicant for the purpose of manufacturing or assembling new light commercial vehicles exclusively for that applicant, including, where relevant, light commercial vehicles which are intended for export;

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(5) 'own design centre' means a facility in which the whole vehicle is designed and developed, and which is under the control of and for the exclusive use of the applicant.

Article 3

Application for a derogation pursuant to Article 11(1) of Regulation (EU) No 510/2011

An application for a derogation pursuant to Article 11(1) of Regulation (EU) No 510/2011 shall be submitted by the applicant in accordance with the format specified in Annex I to this Regulation, and shall include the information set out in Article 4 and Article 5 of this Regulation.

Article 4

Information on eligibility criteria

The applicant shall provide the following information on the eligibility criteria:

(a) information on the ownership structure of the manufacturer or group of connected manufacturers, together with the relevant declaration set out in Annex II;

(b) the number of new light commercial vehicles officially registered in the Union in the three calendar years preceding the date of application for which the applicant is responsible, or where such data is not available, one of the following:

(i) an estimate, based on verifiable data, of the number of new light commercial vehicles registered in the period referred to in the introductory phrase for which the applicant is responsible;

(ii) if no light commercial vehicles were registered in the period referred to in the introductory phrase, the number of new light commercial vehicles registered in the last calendar year for which such data is available.

Article 5

Specific emissions target and reduction potential pursuant to Article 11(2) of Regulation (EU) No 510/2011

1 The applicant shall provide the average specific CO_2 emissions of its new light commercial vehicles registered in 2010, unless the average specific CO_2 emissions for that year are listed in Annex III. Where this information is not available, the applicant shall provide the average specific CO_2 emissions of its new light commercial vehicles registered in the following calendar year closest to 2010.

2 The applicant shall provide the following information on its activities:

a for the calendar year preceding the date of application, the number of employees and the size of the production facility in square meters;

b the operational model of the production facility specifying which design and production activities are performed by the applicant and which are outsourced;

c in the case of a connected undertaking, if the technology is shared by the manufacturers, and which activities are outsourced;

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d for five calendar years preceding the date of application, the sales volumes, yearly turnover, net profit, and research and development spending on CO_2-reducing technologies, and in the case of a connected undertaking, the net transfers to the parent company;

e the characteristics of its market;

f the price list for all versions of light commercial vehicles to be covered by the derogation in the calendar year preceding the date of application, and the expected price list for the light commercial vehicles planned to be launched and to be covered by the derogation.

The information referred to in point (d) of the first subparagraph shall be accompanied by the official certified accounts, or shall be certified by an independent auditor.

3 The applicant shall provide the following information on its technological potential to reduce its specific emissions of CO_2:

a the list of CO_2 reducing technologies used in its light commercial vehicles deployed on the market in 2010 or, where those data are not available, for the following year closest to 2010, or in case of manufacturers planning to enter the market, for the year in which the derogation starts to apply;

b the list of CO_2 reducing technologies used in its light commercial vehicles under the programme for the reduction of specific emissions of CO_2 and the additional costs of these technologies for each vehicle version covered by the application.

4 The applicant shall, in accordance with its reduction potential, propose one of the following targets:

a a specific emissions target that ensures that the average specific emissions of CO_2 at the expiry of the derogation period are reduced in comparison to the average specific emissions of CO_2 referred to in paragraph 1;

b a yearly specific emissions target for each year of the derogation period that is determined so that the average specific CO_2 emissions during the whole derogation period are reduced in comparison to the average specific emissions of CO_2 referred to in paragraph 1.

5 The specific emissions target or yearly specific emissions targets proposed by the applicant shall be accompanied by a programme for the reduction of specific emissions of CO_2 for the new fleet.

The programme for the reduction of specific emissions of CO_2 shall specify the following:

a the timetable for introduction of CO_2 reducing technologies in the applicant's fleet;

b the estimated new light commercial vehicles registered in the Union per year for the period of the derogation and the expected average specific emissions of CO_2 and average mass;

c in the case of yearly specific emissions targets, yearly improvement of specific CO_2 emissions of the vehicle versions for which CO_2 reducing technologies are introduced.

6 The applicant's compliance with a specific emissions target or yearly specific emissions targets shall be assessed in accordance with Article 9 of Regulation (EU) No 510/2011 each year during the derogation period.

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Article 6

Assessment by the Commission

1 Where the Commission has raised no objections within nine months of the official receipt of a complete application pursuant to Article 11(1) of Regulation (EU) No 510/2011 the relevant conditions for applying the derogation shall be deemed to be satisfied.

If the Commission finds that the application is incomplete, additional information may be requested. Where the additional information is not submitted within the time period specified in the request, the Commission may reject the application.

In the case of a rejection due to the incompleteness of the application or due to the Commission finding the proposed specific emissions target inconsistent with the applicant's reduction potential, the applicant may submit a completed or revised application for a derogation.

2 Applications shall be submitted in printed and electronic form. The printed version shall be sent to the Secretariat-General of the European Commission, 1049 Brussels, Belgium, marked 'Derogation under Regulation (EU) No 510/2011'. The electronic version shall be sent to the functional mailbox specified in Annex I.

3 Where information contained in the application is found to be incorrect or inaccurate, the decision to grant a derogation shall be revoked.

Article 7

Public access to information

1 An applicant that considers that information submitted in the application should not be disclosed in accordance with Article 11(8) of Regulation (EU) No 510/2011 shall indicate this in the application and justify why disclosure would undermine the protection of the commercial interests of the applicant, including intellectual property.

2 The exception from the right to public access to documents set out in Article 4(2) of Regulation (EC) No 1049/2001 shall be deemed to apply to the following types of information:

a details of the programme for the reduction of specific emissions of CO_2 referred to in Article 5, and in particular details concerning the development of the applicant's product portfolio;

b expected impacts of CO_2 reducing technologies on the production costs, purchase prices of vehicles and profitability of the company.

Article 8

This Regulation shall enter into force on the 20th 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.