Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO2 emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 725/2011

of 25 July 2011

establishing a procedure for the approval and certification of innovative technologies for reducing CO_2 emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council

(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) In order to promote the development and the early uptake of new and advanced CO_2 emission-reducing vehicle technologies, Regulation (EC) No 443/2009 provides manufacturers and suppliers with the possibility of applying for the approval of certain innovative technologies contributing to reducing CO_2 emissions from passenger cars. Therefore, it is necessary to clarify the criteria for determining which technologies should be eligible as eco-innovations pursuant to that Regulation.

(2) According to point (c) of Article 12(2) of Regulation (EC) No 443/2009, technologies that are part of the Union's integrated approach outlined in the Commission Communication of 7 February 2007 entitled 'Results of the review of the Community Strategy to reduce CO_2 emissions from passenger cars and light-commercial vehicles'[(2)] and the Commission Communication of 7 February 2007 entitled 'A Competitive Automotive Regulatory Framework for the 21st Century'[(3)], and have been regulated in Union law, or other technologies that are mandatory under Union law, are not eligible as eco-innovations under that Regulation. These technologies include tyre pressure monitoring systems, tyre rolling resistance and gear shift indicators falling within the scope of Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefore[(4)] and, as regards tyre rolling resistance, Regulation (EC) No 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters[(5)].

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(3) 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 appropriate to limit the level of market penetration of a technology to that of the niche segment as defined in Article 11(4) of Regulation (EC) No 443/2009 and to use the year 2009 as a baseline. Those thresholds should be subject to review at the latest in 2015.

(4) In order to promote technologies with the highest potential for reducing CO_2 emissions from passenger cars, and in particular the development of innovative propulsion technologies, only those technologies should be eligible that are intrinsic to the transport function of the vehicle and contribute significantly to improving the overall energy consumption of the vehicle. Technologies that are accessory to that purpose or aim at enhancing the comfort of the driver or the passengers should not be eligible.

(5) According to Regulation (EC) No 443/2009, applications may be submitted by both manufacturers and suppliers. The application should include the necessary evidence that the eligibility criteria are fully met, including a methodology for measuring the CO_2 savings from the innovative technology.

(6) It should be possible to measure the CO_2 savings from an eco-innovation with a satisfactory degree of accuracy. That accuracy can only be achieved where the savings are 1 g CO_2/km or more.

(7) Where the CO_2 savings of a technology depends on the behaviour of the driver or on other factors that are outside the control of the applicant, that technology should in principle not be eligible as an eco-innovation, unless it is possible, on the basis of strong and independent statistical evidence, to make verifiable assumptions about average driver behaviour.

(8) The standard test cycle used for type approval measurement of the CO_2 emissions from a vehicle does not demonstrate all savings that can be attributed to certain technologies. To create the right incentives for innovation, only those savings that are not captured by the standard test cycle should be taken into account for the calculation of the total CO_2 savings.

(9) In demonstrating the CO_2 savings, a comparison should be made between the same vehicles with and without the eco-innovation. The testing methodology should provide verifiable, repeatable and comparable measurements. In order to ensure a level playing field and, in the absence of an agreed and more realistic driving cycle, the driving patterns in the New European Driving Cycle as referred to in Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information[(6)] should be used as a common reference. The testing methodology should be based on measurements on a chassis dynamometer or on modelling or simulation where such methodologies would provide better and more accurate results.

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(10) Guidelines on the preparation of the application and the testing methodologies should be provided by the Commission and be regularly updated to take into account the experience gained from assessing different applications.

(11) According to Regulation (EC) No 443/2009, the application must be accompanied by a verification report provided by an independent and certified body. That body should be a technical service of category A or B as referred to in Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles[(7)]. However, in order to ensure the independence of the body, technical services designated in accordance with Article 41(6) of that Directive should not be considered an independent and certified body within the meaning of this Regulation. The body should, together with the verification report, provide relevant evidence of its independence from the applicant.

(12) In order to ensure efficient registration and monitoring of the specific savings for individual vehicles, savings should be certified as part of the type approval of a vehicle and the total savings should be entered into the certificate of conformity in accordance with Directive 2007/46/EC.

(13) The Commission should have the possibility to verify on an ad hoc-basis the certified total savings for individual vehicles. Where it is evident that the certified savings are inconsistent with the level of savings resulting from the decision to approve a technology as an eco-innovation, the Commission should be able to disregard the certified CO_2 savings for the calculation of the average specific CO_2 emissions. The manufacturer should, however, be given a limited time period during which it may demonstrate that the certified values are accurate.

(14) In order to ensure a transparent application procedure, summary information should be available to the public on the applications for approval of innovative technologies and the testing methodologies. Once approved, the testing methodologies should be publicly accessible. The exceptions to the right to public access to documents set out in 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[(8)] should apply as appropriate.

(15) According to Article 13(3) of Regulation (EC) No 443/2009, innovative technologies may no longer be approved under the procedure set out in that Regulation from the date of application of a revised procedure for the measurement of CO_2 emissions. In order to ensure an appropriate phasing out of the eco-innovation credits approved pursuant to this Regulation, this Regulation should be reviewed not later than in 2015.

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

HAS ADOPTED THIS REGULATION:

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Article 1

Subject matter

This Regulation sets out the procedure to be followed for the application for, and assessment, approval and certification of, innovative technologies that reduce emissions of CO_2 from passenger cars pursuant to Article 12 of Regulation (EC) No 443/2009.

Article 2

Scope

1 Any technology falling within the scope of the following measures covered by the integrated approach referred to in Article 1 of Regulation (EC) No 443/2009 shall not be considered as innovative technologies:

a efficiency improvements for air-conditioning systems;

b tyre pressure monitoring systems falling within the scope of Regulation (EC) No 661/2009;

c tyre rolling resistance falling within the scope of Regulations (EC) No 661/2009 and (EC) No 1222/2009;

d gear shift indicators falling within the scope of Regulation (EC) No 661/2009;

e use of bio fuels.

2 **[**F1An 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:**]**

[F1a 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;**]**

b it relates to items intrinsic to the efficient operation of the vehicle and is compatible with Directive 2007/46/EC.

[F2 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(9) from 14 March 2018.**]**

Textual Amendments

F1 Substituted by 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).

F2 Inserted by 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

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the regulatory test procedure and simplifying the administrative procedures for application and certification (Text with EEA relevance).

Article 3

Definitions

In addition to the definitions set out in Articles 2 and 3 of Regulation (EC) No 443/2009, the following definitions shall apply:

(a) 'innovative technology' means a technology or a combination of technologies with similar technical features and characteristics where the CO_2 savings can be demonstrated using one testing methodology and where each of the individual technologies forming the combination falls within the scope specified in Article 2;

(b) 'supplier' means the manufacturer of an innovative technology responsible for ensuring conformity of production or its authorised representative in the Union or the importer;

(c) **[**[F1]'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;**]**

(d) 'eco-innovation' means an innovative technology accompanied by a testing methodology that has been approved by the Commission in accordance with this Regulation;

(e) 'independent and certified body' means a category A or B technical service referred to in points (a) and (b) of Article 41(3) of Directive 2007/46/EC meeting the requirements set out in Article 42 of that Directive, with the exception of technical services designated in accordance with Article 41(6) of that Directive**[**[F1];**]**

(f) **[**[F2]'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.**]**

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