



2023/2767

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**COMMISSION IMPLEMENTING REGULATION (EU) 2023/2767**

**of 13 December 2023**

**establishing a procedure for the approval and certification of innovative technologies for reducing CO<sub>2</sub> emissions from passenger cars and light commercial vehicles pursuant to Regulation (EU) 2019/631 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 (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO<sub>2</sub> emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 <sup>(1)</sup>, and in particular Article 11(2) thereof,

Whereas:

- (1) To promote the development of new and advanced vehicle technologies reducing CO<sub>2</sub> emissions, Article 11 of Regulation (EU) 2019/631 provides for the possibility to consider CO<sub>2</sub> savings that are achieved through the use of such innovative technologies in passenger cars or light commercial vehicles, but which cannot be fully quantified using the Worldwide Harmonised Light Vehicles Test Procedure (WLTP).
- (2) Commission Implementing Regulations (EU) No 725/2011 <sup>(2)</sup> and (EU) No 427/2014 <sup>(3)</sup> establish procedures for the approval and certification of innovative technologies for reducing CO<sub>2</sub> emissions respectively from passenger cars and light commercial vehicles. While the scope of those Regulations differs, they are almost identical in content.
- (3) The scopes of Implementing Regulations (EU) No 725/2011 and (EU) No 427/2014 provide that efficiency improvements for air conditioning systems are not eligible as eco-innovations whereas Article 11 of Regulation (EU) 2019/631 provides that such efficiency improvements will become eligible as from 1 January 2025. It is therefore necessary to amend Implementing Regulations (EU) No 725/2011 and (EU) No 427/2014 to align them with Regulation (EU) 2019/631 and ensure that applications may be submitted ahead of 2025 so that vehicle manufacturers may benefit from CO<sub>2</sub> emissions savings from 2025 onwards.
- (4) It is appropriate to merge Implementing Regulations (EU) No 725/2011 and (EU) No 427/2014 into one Regulation, carrying over most of their provisions while introducing new provisions under Article 11 of Regulation (EU) 2019/631 and, where necessary, bringing improvements based on the experience gained in applying Implementing Regulations (EU) No 725/2011 and (EU) No 427/2014. It is therefore appropriate to repeal those Implementing Regulations and replace them by one Implementing Regulation.
- (5) Manufacturers or suppliers may submit applications proposing an innovative technology as an eco-innovation. Such applications should propose a methodology containing all elements necessary to accurately determine the CO<sub>2</sub> emission savings achieved, considering notably the identification of an appropriate baseline, the specific testing conditions and the real-world usage of the innovative technology. Such application should also include a verification report drawn up by an independent and certified body proving the eligibility and qualifications of the innovative technology.

<sup>(1)</sup> OJ L 111, 25.4.2019, p. 13.

<sup>(2)</sup> 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<sub>2</sub> emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 194, 26.7.2011, p. 19).

<sup>(3)</sup> Commission Implementing Regulation (EU) No 427/2014 of 25 April 2014 establishing a procedure for the approval and certification of innovative technologies for reducing CO<sub>2</sub> emissions from light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council (OJ L 125, 26.4.2014, p. 57).

- (6) In order to simplify the certification of CO<sub>2</sub> 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<sub>2</sub> savings in the application for the approval of an innovative technology as an eco-innovation. Where such simplified methods or pre-defined CO<sub>2</sub> savings are used, the savings certified by approval authorities should be determined in a conservative way reflecting the lowest level of savings demonstrated.
- (7) Following the submission of an application by a manufacturer or supplier, the Commission should assess the completeness and content of the application and decide within 9 months as to whether or not it can approve the eco-innovation.
- (8) Vehicle manufacturers wishing to use eco-innovations to benefit from a reduction of the average specific CO<sub>2</sub> emissions of their fleet should determine the CO<sub>2</sub> savings for the purpose of type-approval on the basis of the approval decisions. To limit the eco-innovations mechanism to the technologies with a more significant impact on CO<sub>2</sub> emissions, a minimum threshold of 0,5 g/km of savings per innovation should be set.
- (9) Where a vehicle is equipped with more than one eco-innovation, the interaction between those technologies could cause their combined CO<sub>2</sub> savings to be less than the sum of the individual savings. Any form of such interaction should be assessed at both the application and type-approval stages in order to ensure an accurate recording of the CO<sub>2</sub> savings.
- (10) The Commission should have the possibility to review the eco-innovation CO<sub>2</sub> savings attributed to individual vehicles to ensure the proper implementation of the approval decisions issued in accordance with this Regulation.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### **Subject matter**

This Regulation sets out the procedure to be followed for the approval of innovative technologies in accordance with Article 11 of Regulation (EU) 2019/631.

#### *Article 2*

#### **Definitions**

For the purposes of this Regulation, the definitions set out in Article 2 of Commission Regulation (EU) 2017/1151 <sup>(4)</sup>, in Article 3 of Regulation (EU) 2019/631, and in paragraph 3 of UN Regulation No 154 <sup>(5)</sup>, shall apply.

<sup>(4)</sup> Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing 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, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008 (OJ L 175, 7.7.2017, p. 1).

<sup>(5)</sup> UN Regulation No 154 – Uniform provisions concerning the approval of light duty passenger and commercial vehicles with regards to criteria emissions, emissions of carbon dioxide and fuel consumption and/or the measurement of electric energy consumption and electric range (WLTP) [2022/2124] (OJ L 290, 10.11.2022, p. 1).

The following definitions shall also apply:

- (1) 'innovative technology' means a technology that has been fitted in 3 % or less of all new passenger cars registered in the Union in the year  $n-4$  for applications related to passenger cars or in 3 % or less of all new light commercial vehicles registered in the Union in the year  $n-4$  for applications related to light commercial vehicles, with  $n$  being the year of application, or a combination of such technologies with similar technical features and characteristics and for which the CO<sub>2</sub> savings can be demonstrated using one methodology;
- (2) 'eco-innovation' means an innovative technology accompanied by a testing methodology that has been approved by the Commission in accordance with this Regulation;
- (3) 'supplier' means the manufacturer of an innovative technology responsible for ensuring conformity of production, its authorised representative in the Union, or the importer;
- (4) 'applicant' means a manufacturer or supplier, or a group of manufacturers or suppliers, submitting an eco-innovation application;
- (5) 'approval decision' means a Commission Implementing Decision on the approval of an innovative technology as an eco-innovation;
- (6) 'independent and certified body' means a category A or B technical service referred to in Article 68(1), points (a) and (b), of Regulation (EU) 2018/858 of the European Parliament and of the Council <sup>(6)</sup> meeting the requirements set out in Articles 69 and 70 of that Regulation and that is not an in-house technical service of a manufacturer;
- (7) 'specific test conditions' means test conditions that are set out for the purpose of demonstrating the CO<sub>2</sub> savings of the innovative technology with strong statistical significance and that are not set out in Regulation (EU) 2017/1151;
- (8) 'eco-innovation vehicle' means a vehicle fitted with the innovative technology, or the innovative technology as a standalone component;
- (9) 'baseline vehicle' means a vehicle not fitted with the innovative technology but that is in all other aspects identical to the eco-innovation vehicle, or a baseline technology as a stand-alone component.

### Article 3

#### **Eco-innovation application**

1. An applicant shall submit its application for the approval of an innovative technology as an eco-innovation ('eco-innovation application') to the Commission by email. If the supporting data cannot be sent by email, it shall be sent on an electronic data carrier or uploaded to a server accessible by the Commission.
2. An eco-innovation application shall include the following:
  - (a) the contact details of the applicant;
  - (b) a description of the innovative technology, the way it is fitted on a vehicle, the vehicle category (i.e. M1 or N1), propulsion type (i.e. pure ICE vehicle, NOVC-HEV or OVC-HEV), the type of fuel and the fuel mode covered;
  - (c) a proposal for a methodology to demonstrate the CO<sub>2</sub> savings of the innovative technology or, where such methodology is already set out in an existing approval decision, a reference to such methodology;
  - (d) a verification report.

<sup>(6)</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151 14.6.2018, p. 1).

3. Notwithstanding paragraph 2, point (c), the applicant may also include in its application a simplified methodology associated with the methodology referred to in paragraph 2, point (c), or pre-defined CO<sub>2</sub> savings values.
4. Where the applicant is a group of manufacturers or suppliers, and where required for reasons related to confidentiality or competition, several verification reports may be provided by the members of the applicant group for different sets of data supporting the same application.

#### Article 4

##### **Methodology to demonstrate the CO<sub>2</sub> savings of the innovative technology**

1. The methodology referred to in Article 3(2), point (c), and, where applicable, the associated simplified methodology referred to in Article 3(3), shall provide results in terms of CO<sub>2</sub> savings that are verifiable, repeatable and reproducible.
2. The methodology referred to in Article 3(2), point (c), of this Regulation shall:
  - (a) define specific test conditions;
  - (b) identify a baseline vehicle that is supported by statistical evidence on the basis of which verifiable assumptions about its appropriateness and representativeness can be made;
  - (c) set out how to determine the CO<sub>2</sub> emissions savings from the innovative technology, taking into account the specific test conditions referred to in point (a), the real-world usage of the innovative technology, supported by statistical evidence, and the extent to which the innovative technology is already covered by the Type 1 test which is set out in Annex XXI to Regulation (EU) 2017/1151;
  - (d) take account of any deterioration effect of the technology over time and to what extent it modifies the CO<sub>2</sub> emissions savings;
  - (e) where relevant, take account of the interaction with other eco-innovations and to what extent it modifies the CO<sub>2</sub> emissions savings.
3. The simplified methodology referred to in Article 3(3) shall provide results in terms of CO<sub>2</sub> savings that are lower or equal to those determined using the associated methodology referred to in Article 3(2), point (c), including any possible interactions with other approved eco-innovations.
4. In the case of pre-defined CO<sub>2</sub> savings values proposed in accordance with Article 3(3), those values shall be lower or equal to the CO<sub>2</sub> savings determined in accordance with the methodology referred to in Article 3(2), point (c).

#### Article 5

##### **Verification report**

1. In the verification report referred to in Article 3(2), point (d), of this Regulation, the independent and certified body shall:
  - (a) declare that it qualifies as an independent and certified body;
  - (b) prove that the proposed technology or combination of technologies qualifies as an innovative technology;
  - (c) prove that the innovative technology fulfils the conditions set out in Article 11(2) of Regulation (EU) 2019/631;
  - (d) prove that the innovative technology relates to items intrinsic to the efficient operation of the vehicle or constitutes an efficiency improvement for air conditioning systems;
  - (e) prove that the methodologies referred to in Article 3 fulfil the requirements as provided for in Article 4;

- (f) describe the interaction between the innovative technology and all eco-innovations covered by approval decisions that may be fitted to the same vehicle, and specify the impact of any such interaction on the total CO<sub>2</sub> savings.
2. Where the application concerns an innovative technology already covered by an existing approval decision, paragraph 1, points (b) to (f), may be substituted by references to such approval decision.

#### Article 6

##### **Verification of the application's completeness and approval decision**

1. Within 10 working days from receiving an eco-innovation application, the Commission shall notify the applicant whether or not the application is considered complete. The Commission may invite the applicant to provide additional elements to complete its application and shall notify the applicant within 10 working days from receipt of such additional elements whether or not the application is considered complete.
2. If the applicant fails to provide the missing information within the deadline set by the Commission, the application shall be considered to have been withdrawn.
3. Once it has found an application to be complete, the Commission shall proceed with its assessment. Where the Commission finds that the methodologies referred to in Article 3 do not fulfil the requirements as set out in Article 4, it may adjust the methodologies or propose other methodologies than the ones proposed by the applicant. In such cases, the applicant shall be consulted.
4. Within 9 months from receipt of a complete eco-innovation application, the Commission shall issue an approval decision if it concludes that the verification report referred to in Article 3(2), point (d), fulfils the requirements set out in Article 5. If it does not so conclude, the Commission shall notify the applicant of the refusal of the application and provide justifications.
5. The 9-month period referred to in paragraph 4 may be extended by up to 5 months where the Commission finds that, because of the complexity of the innovative technology or the accompanying methodology, the eco-innovation application cannot be appropriately assessed within 9 months.

In this case, the Commission shall, within 30 working days from receipt of the complete eco-innovation application, notify the applicant of the extended deadline.

6. The approval decision shall specify the information required for the determination of the CO<sub>2</sub> savings in accordance with Article 7.
7. The Commission may, at any time, amend an approval decision on its own initiative, in particular to take into account technical progress.

#### Article 7

##### **Certified CO<sub>2</sub> savings from eco-innovations**

1. A manufacturer wishing to benefit from a reduction of its average specific CO<sub>2</sub> emissions by means of the CO<sub>2</sub> savings from an eco-innovation shall proceed in accordance with Annex XII to Regulation (EU) 2017/1151 and refer to the approval decision.
2. The approval authority referred to in Annex XII to Regulation (EU) 2017/1151 shall determine the CO<sub>2</sub> savings of the eco-innovation in accordance with Article 30 of Regulation (EU) 2018/858, using a methodology set out in the approval decision.
3. Where the CO<sub>2</sub> savings for an individual vehicle are less than 0,5 g/km, the CO<sub>2</sub> savings shall not be considered for the purpose of type-approval and their value shall not be indicated in the Certificate of Conformity.

4. Where vehicles are fitted with several eco-innovations, the manufacturer shall declare in the application for an EC type-approval in accordance with Annex XII to Regulation (EU) 2017/1151, whether or not interactions between the eco-innovations may affect their total CO<sub>2</sub> savings.

If the eco-innovations have no such interactions, the CO<sub>2</sub> savings shall be demonstrated separately for each eco-innovation and the total CO<sub>2</sub> savings for the purpose of the certification of the vehicles shall be the sum of the CO<sub>2</sub> savings of the individual eco-innovations.

If the eco-innovations have such interactions, the manufacturer shall provide a report from an independent and certified body on the impact of the interaction on the total savings of the eco-innovations in the vehicles, unless this impact is quantified in the approval decision.

Where, due to such interactions, the total CO<sub>2</sub> savings are less than 0,5 g CO<sub>2</sub>/km times the number of eco-innovations installed in the vehicle, the CO<sub>2</sub> savings shall not be considered for the purpose of type-approval and their value shall not be indicated in the Certificate of Conformity.

5. In the case of completed vehicles related to incomplete base vehicles as defined in Article 3 of Regulation (EU) 2018/858, only eco-innovations fitted to the base vehicle shall be considered for the certification of CO<sub>2</sub> savings from an eco-innovation.

#### *Article 8*

### **Review of CO<sub>2</sub> savings**

1. The Commission may verify the CO<sub>2</sub> savings attributed to individual vehicles using a methodology laid out in the applicable approval decisions.

2. Where it finds that there is a difference between the certified CO<sub>2</sub> savings and the CO<sub>2</sub> savings it has verified, the Commission shall notify the manufacturer of its findings.

The Commission may also, where it finds, or is informed of, deviations or inconsistencies in the methodology or in the innovative technology in comparison to the information it had received as part of the application, notify this to the manufacturer.

The manufacturer shall, within 40 working days of receipt of the notification, provide the Commission with evidence demonstrating the accuracy of the certified CO<sub>2</sub> savings.

3. Where the evidence referred to in paragraph 2 is not provided within the time period referred to in paragraph 2, third subparagraph, or where it finds that the evidence provided is not satisfactory, the Commission may decide not to take the certified CO<sub>2</sub> savings into account for the calculation of the average specific emissions of that manufacturer for all calendar years for which those certified CO<sub>2</sub> savings were accounted for.

#### *Article 9*

### **Repeal**

Implementing Regulations (EU) No 725/2011 and (EU) No 427/2014 are repealed.

#### *Article 10*

### **Entry into force**

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, 13 December 2023.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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