

Commission Regulation (EU) No 63/2011 of 26 January 2011 laying down detailed provisions for the application for a derogation from the specific CO₂ emission targets pursuant to Article 11 of Regulation (EC) No 443/2009 of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION REGULATION (EU) No 63/2011

of 26 January 2011

laying down detailed provisions for the application for a derogation from the specific CO₂ emission targets pursuant to Article 11 of 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 CO₂ emissions from light-duty vehicles⁽¹⁾, and in particular Article 11(8) thereof,

Whereas:

- (1) According to Article 11 of Regulation (EC) No 443/2009 small-volume and niche manufacturers may apply for alternative emissions reduction targets relating to the reduction potential of a given manufacturer's vehicles to reduce their specific emissions of CO₂, and consistent with the characteristics of the market for the types of cars concerned.
- (2) In determining the small-volume manufacturer'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 CO₂ reducing technologies used in the cars. The information requested include data that is readily available to the applicant and should not entail an additional administrative burden.
- (3) To provide consistency between the reduction target requested from small-volume and niche manufacturers, and in order to avoid putting at a disadvantage the small-volume manufacturers that decreased their average specific CO₂ emissions prior to 2012, the specific CO₂ emission targets for those manufacturers should be compared to their baseline average specific CO₂ emissions in 2007. Where this data does not exist the target should be compared to the average specific CO₂ emissions in the following calendar year closest to 2007.
- (4) In order to take into account the limited product offer of some small-volume manufacturers and resulting limited scope for distribution of the reduction effort over

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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 reduction from the 2007 baseline at the end of the derogation period.

- (5) Article 11(4) of Regulation (EC) No 443/2009 allows certain niche manufacturers to benefit from an alternative specific emissions target which is 25 % lower than their average specific emissions of CO₂ in 2007. An equivalent specific emissions target based on the best available CO₂-reducing technologies in 2007 should be determined where information on a manufacturer's average specific emissions of CO₂ does not exist for the year 2007. The ratio of maximum power to vehicle mass should be used to distinguish different market characteristics for cars of a given mass for the purpose of identifying the best available CO₂ emissions reduction technologies.
- (6) In order to provide small-volume and niche manufacturers with a clear baseline to be used for setting the specific emissions targets, a list of manufacturers and their average specific CO₂ emissions in the Union in 2007 has been drawn up following a formal consultation with the Member States and the main stakeholders, including the associations of European (ACEA), Japanese (JAMA) and Korean (KAMA) car manufacturers, and European Association of Small Volume Manufacturers (ESCA).
- (7) 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 manufacturer'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.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee established by Article 9 of Decision No 280/2004/EC of the European Parliament and of the Council⁽²⁾,

HAS ADOPTED THIS REGULATION:

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- (1) [OJ L 140, 5.6.2009, p. 1.](#)
- (2) [OJ L 49, 19.2.2004, p. 1.](#)

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Changes and effects yet to be applied to the whole legislation item and associated provisions

- Signature words omitted by [S.I. 2019/550 reg. 4\(8\)](#)
- Art. 4(1)(b) words substituted by [S.I. 2019/550 reg. 4\(2\)](#)
- Art. 5(3)(b) words substituted by [S.I. 2023/1394 art. 114\(2\)\(a\)](#)
- Art. 5(5)(b) words substituted by [S.I. 2019/550 reg. 4\(3\)\(b\)](#)