Delegations will find attached the Presidency version of the text of the proposal. At this stage, all delegations maintain a scrutiny reservation of the text.

Presidency text suggestions accepted by the WP are in **bold underlined**; deletions in simple strikethrough. Suggestions by the lawyer-linguists, as far as already received, are represented in **bold double underlined**.
Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 715/2007 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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , p.
Whereas:


(2) Regulation (EC) No 715/2007 requires new light-duty vehicles to comply with certain emission limits (Euro 5 and Euro 6 standards) and lays down additional requirements on access to vehicle repair and maintenance information. The specific technical provisions necessary to implement that Regulation were set out in Commission Regulation (EC) No 692/2008\(^4\) and subsequently, in Commission Regulation (EU) 2017/1151\(^5\).

(3) The type-approval requirements relating to emissions from motor vehicles have been gradually and significantly tightened through the introduction and subsequent revision of Euro standards. While vehicles in general have delivered substantial emission reductions across the range of regulated pollutants, this was not the case for NOx emissions from diesel engines or particles for gasoline direct injection engines, installed in particular in light-duty vehicles. Actions for correcting this situation are therefore needed.


The Commission performed a detailed analysis of the procedures, tests and requirements for type approval that are set out in Regulation (EC) No 692/2008 on the basis of own research and external information and found that the emissions generated by real driving on the road of Euro 5 or Euro 6 vehicles substantially exceed the emissions measured on the regulatory New European Driving Cycle (NEDC), in particular with respect to NOx emissions of diesel vehicles.

As a result, the Commission developed a new methodology for testing vehicle emissions in real-driving conditions, the real-driving emissions (RDE) test procedure. The RDE test procedure was introduced by Commission Regulations (EU) 2016/427 and (EU) 2016/646, subsequently taken over into Regulation (EU) 2017/1151 and further improved by Commission Regulation (EU) 2017/1154.

Regulation (EU) 2016/646 introduced the dates of application of the RDE test procedure, as well as the compliance criteria for RDE. For that purpose, pollutant-specific conformity factors were used to take account of statistical and technical uncertainties of the measurements conducted by means of Portable Emission Measurement Systems (PEMS).

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On 13 December 2018, the General Court delivered judgment in Joined Cases T-339/16, T-352/16 and T-391/16 concerning an action for annulment of Regulation (EU) 2016/646. The General Court annulled the part of Regulation (EU) 2016/646 which established the conformity factors used to assess compliance of RDE test results with the emission limits laid down in Regulation (EC) No 715/2007. The Court found that only the legislator could introduce those conformity factors as they touched upon an essential element of Regulation (EC) No 715/2007.

The General Court did not question the technical justification of the conformity factors. Therefore, and given that at the current stage of technological development there is still a discrepancy between emissions measured in real driving and those measured in a laboratory, it is appropriate to introduce the conformity factors into Regulation (EC) No 715/2007.

In order to allow manufacturers to comply with the Euro 6 emission limits in the context of RDE test procedure, the compliance criteria for RDE should be introduced in two steps. During the first step, upon the request of the manufacturer, a temporary conformity factor should apply, while as a second step only the final conformity factor should be used. The Commission should keep under review the final conformity factors in light of technical progress.

(10) The Treaty of Lisbon introduced the possibility for the legislator to delegate power to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. The measures which can be covered by delegations of powers, as referred to in Article 290(1) TFEU, correspond in principle to those covered by the regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC\(^{11}\). It is therefore necessary to adapt to Article 290 TFEU the provisions of Regulation (EC) No 715/2007 which provide for the use of the regulatory procedure with scrutiny.

(11) In order to contribute to the achievement of the Union’s air quality objectives and to reduce vehicle emissions, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFUE) should be delegated to the Commission in respect of the detailed rules on the specific procedures, tests and requirements for type approval. That delegation should include supplementing Regulation (EC) No 715/2007 by such revised rules as well as the test cycles used to measure emissions; the requirements for the implementation of the prohibition on the use of defeat devices that reduce the effectiveness of emission control systems; the measures necessary for the implementation of the obligation of a manufacturer to provide unrestricted and standardised access to vehicle repair and maintenance information; the adoption of a revised measurement procedure for particulates. The delegation should further include amending Regulation (EC) No 715/2007 for the purposes of revising the final conformity factors downwards to reflect technical progress in PEMS and recalibrating the particulate mass based limit values and introducing particle number based limit values. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States’ experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(12) To ensure continuity of implementation in light of technical progress, regulatory procedures with scrutiny pending at the time of the entry into force of this Regulation on which the committee has already delivered its opinion should be completed in accordance with Article 5a of Decision 1999/468/EC.
(13) In order to ensure uniform conditions for the implementation of Article 4(2) and (3) of Regulation (EU) No 715/2007, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.\(^\text{12}\)

(14) Since the objectives of this Regulation, namely to lay down rules on emissions from motor vehicles in order to contribute to the achievement of the basic air quality objectives, cannot be sufficiently achieved by the Member States as motor vehicles with a valid type approval may be marketed across national boundaries but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(15) Regulation (EC) No 715/2007 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

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Article 1

Regulation (EC) No 715/2007 is amended as follows:

(1) Article 2(2) is replaced by the following:

“2. At the manufacturer's request, type approval granted under this Regulation may be extended from vehicles covered by paragraph 1 to M₁, M₂, N₁ and N₂ vehicles as defined in Annex II to Directive 2007/46/EC with a reference mass not exceeding 2 840 kg and which meet the requirements of this Regulation.”;

(2) in Article 3, the introductory wording is replaced by the following:

“For the purposes of this Regulation, the following definitions shall apply: ”;

(3) Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. Manufacturers shall demonstrate that all new vehicles sold, registered or put into service in the Community Union are type approved in accordance with this Regulation. Manufacturers shall also demonstrate that all new replacement pollution control devices requiring type approval which are sold or put into service in the Community Union are type approved in accordance with this Regulation.

Those obligations include **meeting complying with** the emission limits set out in Annex I. For the purposes of determining compliance with the Euro 6 emission limits set out in Table 2 of Annex I, the emission values determined during any valid Real Driving Emissions (RDE) test shall be divided by the applicable conformity factor set out in Table 2a of Annex I. The result shall **remain below comply with** the Euro 6 emission limits set out in Table 2 of that Annex.”;
(b) paragraph 4 is replaced by the following:

“4. The Commission shall, by means of implementing acts, establish the specific procedures and requirements referred to in paragraphs 2 and 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2). ”;
(4) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. The manufacturer shall equip vehicles so that the components likely to affect emissions are designed, constructed and assembled so as to enable the vehicle, in normal use, to comply with this Regulation.”;

(b) in paragraph 3, the two introductory sentences are replaced by the following:

“3. The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to supplement paragraphs 1 and 2 by laying down specific requirements and developing the specific procedures, tests and requirements for type-approval set out in this paragraph relating to in particular:”;

(5) in Article 6(7), the second sentence is replaced by the following:

“In the event that such information is not yet available, or does not yet conform to this Regulation at that point in time, the manufacturer shall provide it within six months from the date of type approval.”;

(6) Article 8 is replaced by the following:

“Article 8

Delegated acts on access to vehicle repair and maintenance information

The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to supplement Articles 6 and 7. This shall include the definition and updating of technical specifications relating to the way in which OBD and vehicle repair and maintenance information shall be provided, with special attention being paid to the specific needs of SMEs.”;
(7) Article 10 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. With effect from 2 July 2007, if a manufacturer so requests, the national authorities may not, on grounds relating to emissions or fuel consumption of vehicles, refuse to grant EC type approval or national type approval for a new type of vehicle, or prohibit the registration, sale or entry into service of a new vehicle, where the vehicle concerned complies with this Regulation, and in particular with the Euro 5 limit values set out in Table 1 of Annex I or with the Euro 6 limit values set out in Table 2 of Annex I, subject to the second subparagraph of Article 4(1).”

(b) paragraphs 4 and 5 are replaced by the following:

“4. With effect from 1 September 2014, and from 1 September 2015 in the case of category N₁ class II and III and category N₂ vehicles, the national authorities shall refuse, on grounds relating to emissions or fuel consumption, to grant EC type approval or national type approval for new types of vehicle which do not comply with this Regulation, and in particular with the Euro 6 limit values set out in Table 2 of Annex I.

The compliance with the Euro 6 limit values shall, during any valid RDE test, be determined by taking into account the pollutant-specific conformity factor set out in Table 2a of Annex I in accordance with the second subparagraph of Article 4(1).
5. With effect from 1 September 2015, and from 1 September 2016 in the case of category N\textsubscript{1} class II and III and category N\textsubscript{2} vehicles, national authorities shall, in the case of new vehicles which do not comply with this Regulation, and in particular with the Euro 6 limit values set out in Table 2 of Annex I, ["as determined in accordance with the second subparagraph of paragraph 4,"] consider certificates of conformity to be no longer valid for the purposes of Article 18 of Directive 2007/46/EC and shall, on grounds relating to emissions or fuel consumption, prohibit the registration, sale or entry into service of such vehicles.

The compliance with the Euro 6 limit values shall, during any valid RDE test, be determined by taking into account the pollutant-specific conformity factor set out in Table 2a of Annex I in accordance with the second subparagraph of Article 4(1)."

(8) Article 11(1) is replaced by the following:

"1. For new replacement pollution control devices intended to be fitted on vehicles approved under this Regulation, national authorities shall prohibit their sale or installation on a vehicle if they are not of a type in respect of which a type approval has been granted in compliance with this Regulation.”;

(9) in Article 12(1), the first subparagraph is replaced by the following:

"1. Member States may make provision for financial incentives that apply to vehicles in series production which comply with this Regulation.”;
(10) in Article 14, paragraphs 2 and 3 are replaced by the following:

“2. The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to adopt the following measures based on the results of the UNECE Particulate Measurement Programme, conducted under the auspices of the World Forum for Harmonisation of Vehicle Regulations, without lowering the level of environmental protection within the Union:

(a) amend this Regulation for the purposes of revising downwards the particulate mass and particle number limit values set out in Annex I;

(b) supplement this Regulation by the adoption of a revised measurement procedure for particle numbers.

3. The Commission is empowered to adopt delegated acts in accordance with Article 14a:

(a) supplementing this Regulation in order to adapt the procedures, tests and requirements as well as the test cycles used to measure emissions in order to adequately reflect real driving emissions;

(b) amending this Regulation in order to adapt to technical progress revise downwards the pollutant-specific final conformity factors set out in Table 2a to Annex I in light of technical progress by taking into account the technical uncertainties linked with the use of the Portable Emission Measurement Systems (PEMS).
(11) the following Article 14a is inserted:

"Article 14a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 5(3), Article 8 and Article 14(2) and (3) shall be conferred on the Commission for a period of five years from ... [date of entry into force]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 5(3), Article 8 and Article 14(2) and (3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 5(3), Article 8 and Article 14(2) and (3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”;
(12) Article 15 is replaced by the following:

“Article 15
Committee procedure

1. The Commission shall be assisted by the committee referred to in Article 40(1) Directive 2007/46/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.”;

(13) Annex I is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall not affect pending procedures under Article 5(3), Article 8 and Article 14(2) and (3) of Regulation (EC) No 715/2007 in which the committee has already delivered its opinion in accordance with Article 5a of Decision 1999/468/EC.

Article 3

This Regulation shall enter into force on the third 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,

For the European Parliament
The President

For the Council
The President
In Annex I to Regulation (EC) No 715/2007, the following Table 2a is inserted:

“Table 2a
Real Driving Emissions Conformity Factors

<table>
<thead>
<tr>
<th>CF_{pollutant_final}^{(2)}</th>
<th>CF_{pollutant_temp}^{(3)}</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oxides of nitrogen (NO_x)</td>
<td>Carbon monoxide (CO)^{(1)}</td>
</tr>
<tr>
<td>Number of particles (PN)</td>
<td>Total hydrocarbons (THC)</td>
</tr>
<tr>
<td></td>
<td>Combined hydrocarbons and oxides of nitrogen (THC + NO_x)</td>
</tr>
<tr>
<td>1,43</td>
<td>2,1</td>
</tr>
<tr>
<td>1,5</td>
<td>1,5</td>
</tr>
</tbody>
</table>

(1) CO emissions shall be measured and recorded for all RDE tests.
(2) \( CF_{pollutant\_final} \) is the conformity factor used to determine compliance with the Euro 6 emission limits by taking into account the technical uncertainties linked with the use of the Portable Emission Measurement Systems (PEMS), composed of 1 + margin of technical uncertainty.
(3) \( CF_{pollutant\_temp} \) is the temporary conformity factor that may be used upon request of the manufacturer as an alternative to \( CF_{pollutant\_final} \) during a period of 5 years and 4 months following the dates specified in Article 10(4) and (5).”.
(4) In the case of new vehicles, for 4 years after the dates specified in Article 10(5) compliance with the Euro 6 emission limits for NOx during any valid RDE test in accordance with the second subparagraph of Article 4(1) shall not apply.”.