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#### **NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: 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

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#### **I. INTRODUCTION**

1. On 14 June 2019, the Commission transmitted the above-mentioned proposal for a Regulation to the European Parliament and to the Council in reaction to the ruling of the General Court of the European Union of 13 December 2018 concerning the setting-up of conformity factors for nitrogen oxides (NOx).

2. Emission limits for NOx are set by the requirements of Regulation 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. Commission Regulation (EU) 2016/646 sets out conformity factors used to assess the compliance of light passenger and commercial vehicles with the emission limits laid down in Regulation (EC) No 715/2007, while performing a real driving emission test. The application of conformity factors is meant to take account of technical and statistical uncertainties related to the Real Driving Emission tests (RDE tests).
3. On 13 December 2018, the General Court of European Union ruled that the Commission acted outside of its power by introducing correction coefficients or so-called "conformity factors" to the limits defined in Euro 6 requirements through Commission implementing Regulation 2016/646 instead of the ordinary legislative procedure. According to the Court, only co-legislators could have introduced the conformity factors that are necessary for the correct application of the real driving emissions test procedure because it touches upon an essential element of Regulation (EC) No 715/2007.
4. In this context, the Commission submitted a legislative proposal in order to replace the content of the partially annulled Commission Regulation (EU) 2016/646. The proposed Regulation includes the same conformity factors for NOx and provides for a two-step procedure, namely temporary conformity factors during the first step, and the final conformity factors during the second step. In addition, the proposal empowers the Commission to further review the conformity factors to adapt them to technical progress in order to gradually reduce the NOx emissions under real driving.
5. The European Economic and Social Committee issued its opinion on 25 September 2019.
6. The Committee of the Regions did not issue an opinion on this proposal.

7. The main responsible committee in the European Parliament is the Committee on Environment (ENVI). Ms Esther De Lange (EPP – NL) was appointed as rapporteur on 11 September 2019. The ENVI vote on the report is tentatively scheduled for March 2020, bearing in mind that TRAN and IMCO Committees will have to issue an opinion prior to the ENVI vote.

## **II. WORK CONDUCTED WITHIN THE COUNCIL AND MAIN CHANGES TO THE TEXT**

8. The first meeting of the Working Party on Technical Harmonisation (Motor Vehicles) was held on 17 June 2019 under the Romanian Presidency. During the meeting, the Commission presented the proposal. All Member States acknowledged the need to have a rapid adoption of this file in order to have clarity about the applicable rules as soon as possible to avoid legal uncertainty for the automotive industry.
9. The examination of the proposal continued under the Finnish Presidency with the organisation of six meetings of the Working Party in the last five months. Extensive discussions during the meetings, as well as written comments submitted by Member States resulted in three consecutive revised versions of the Presidency compromise proposal.
10. In the course of the discussions at Working Party level, the proposal has evolved with a view to accommodating important concerns raised by the Member States, such as the need to involve the Member States in the decision-making process concerning conformity factors for NO<sub>x</sub>. The Presidency compromise proposal provides for the removal of the empowerment given to the Commission to review the conformity factors through delegated acts and the inclusion of a review clause, under which the Commission is invited to submit a legislative proposal with a view to revising downwards the value of the margin of measurement uncertainty of the pollutant-specific final conformity factors.

11. Discussions at Working Party level have also resulted in:
  - introducing additional definitions to increase clarity, in particular on "real-driving emissions", "small volume manufacturers" and "ultra-small volume manufacturers";
  - turning the proposed delegated act on specific procedures, tests and requirements for type-approval into implementing acts, with further clarification of the empowerment granted to the Commission concerning small volume and extra-small volume manufacturers (Article 1(4));
  - clarifying the provisions concerning the application date for Real-Driving Emissions for NO<sub>x</sub> (Article 1(7));
  - removing the columns concerning Carbon monoxide, total hydrocarbons and combined hydrocarbons and oxides of nitrogen (THC+NO<sub>x</sub>) (Table 2a to Annex I);
  - keeping the values of the conformity factors as proposed by the Commission (Table 2a to Annex I).
12. Following the Working Party meeting on 19 November 2019, the Presidency has prepared a revised compromise proposal as set out in the Annex to this note with a view to receiving a mandate from the Permanent Representatives Committee to start informal negotiations with the European Parliament as soon as the latter is ready.
13. The new text appears in **bold/underlined** and deletions are in ~~strikethrough~~ with respect to the Commission proposal.

### III. CONCLUSION

14. The Presidency compromise text set in Annex reflects the continuous efforts of the Presidency to strike the right balance between the different interests on the above main issues.

The Permanent Representatives Committee is, therefore, invited to endorse the overall Presidency compromise and to mandate the Presidency to start informal negotiations with the European Parliament as soon as the latter is ready with a view to reaching a first reading agreement on the basis of the compromise proposal set out in the Annex.

As provided by the Presidency's note on openness and transparency of 6 September 2019<sup>1</sup>, the Presidency suggests that, if no objections are raised, the mandate endorsed by the Committee shall be made public, in accordance with the Council's Rules of Procedure.

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<sup>1</sup> Document 11999/19

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 Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>2</sup> OJ C , , p. .

Whereas:

- (1) Regulation (EC) No 715/2007 of the European Parliament and of the Council<sup>3</sup> is one of the separate regulatory acts under the type-approval framework laid down by Directive 2007/46/EC of the European Parliament and of the Council<sup>4</sup>.
- (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<sup>5</sup> and subsequently, in Commission Regulation (EU) 2017/1151<sup>6</sup>.
- (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.

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<sup>3</sup> Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 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 (OJ L 171, 29.6.2007, p. 1).

<sup>4</sup> 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 (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

<sup>5</sup> 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 (OJ L 199, 28.7.2008, p. 1).

<sup>6</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).

- (4) 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.
- (5) 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<sup>7</sup> and (EU) 2016/646<sup>8</sup>, subsequently taken over into Regulation (EU) 2017/1151 and further improved by Commission Regulation (EU) 2017/1154<sup>9</sup>.
- (6) Regulation (EU) 2016/646<sup>10</sup> 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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<sup>7</sup> Commission Regulation (EU) 2016/427 of 10 March 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 82, 31.03.2016, p.1).

<sup>8</sup> Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 109, 26.04.2016, p.1).

<sup>9</sup> Commission Regulation (EU) 2017/1154 of 7 June 2017 amending Regulation (EU) 2017/1151 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 Regulation (EC) No 692/2008 and Directive 2007/46/EC of the European Parliament and of the Council as regards real-driving as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 175, 07.07.2017, p.708)

<sup>10</sup> Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 109, 26.04.2016, p.1).



- (7) On 13 December 2018, the General Court delivered judgment in Joined Cases T-339/16, T-352/16 and T-391/16<sup>11</sup> 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.
- (8) ~~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. **The provisions on compliance of new vehicles of category N1 class II and III and category N2 with Euro 6 limit values for NO<sub>x</sub> during any valid RDE test, set out in Commission Regulation (EU) 2017/1151, are closely linked to the conformity factors. They should also be introduced into Regulation (EC) No 715/2007 in order to ensure legal certainty. Such provisions are necessary in order to allow approval authorities and manufacturers to put in place the procedures needed to comply with the requirements of Regulation (EC) No 715/2007, as well as to follow as much as possible the established calendar for the application of emissions requirements.**

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<sup>11</sup> Judgment of 13 December 2018, *Ville de Paris, Ville de Bruxelles and Ayuntamiento de Madrid v Commission*, T-339/16, T-352/16 and T-391/16, EU:T:2018:927.

**(8a) In accordance with Commission Regulation (EU) 2017/1154, small-volume manufacturers have been provided with extra time to fully meet the not-to-exceed limits, while specific provisions apply to ultra-small-volume manufacturers since they contribute only marginally to the total emissions of the light passenger and commercial vehicle fleet. Given that those provisions are also closely linked to the conformity factors, Regulation (EC) No 715/2007 should be amended in order to ensure legal certainty by empowering the Commission to lay down the specific procedures, tests and requirements for type-approval relating to small-volume and ultra-small-volume manufacturers.**

(9) 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~~ **were** introduced in two steps. During the first step, upon the request of the manufacturer, a temporary conformity factor ~~should apply~~**ies**, while as a second step only the final conformity factor ~~should be~~ **is** 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<sup>12</sup>. 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.~~ **The Treaty of Lisbon modified the legal framework governing the powers conferred on the Commission by the legislator, introducing a distinction between powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act (delegated acts), and the powers conferred on the Commission to adopt acts to ensure uniform conditions for implementing legally binding Union acts (implementing acts).**

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<sup>12</sup> Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

- (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;~~ **as well as of** 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) **and Article 5(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<sup>13</sup>.
- (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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<sup>13</sup> Regulation (EU) 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

*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 M<sub>1</sub>, M<sub>2</sub>, N<sub>1</sub> and N<sub>2</sub> 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, **is amended as follows:**

**(a)** the introductory wording is replaced by the following:

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

**(b) the following definitions are introduced:**

**“18. ‘real driving emissions (RDE)’ means the emissions of a vehicle under its normal conditions of use;**

**19. ‘small-volume manufacturer’ means a manufacturer whose worldwide annual production is less than 10 000 units for the year prior to the one for which the type approval is granted and:**

**(a) is not part of a group of connected manufacturers; or**

**(b) is part of a group of connected manufacturers whose worldwide annual production is less than 10 000 units for the year prior to the one for which the type approval is granted; or**

**(c) is part of a group of connected manufacturers but operates its own production facilities and own design centre;**

**20. ‘own production facility’ means a manufacturing or assembly plant used by the manufacturer for the purpose of manufacturing or assembling new vehicles for that manufacturer, including, where relevant, vehicles which are intended for export;**

**21. ‘own design centre’ means a facility in which the whole vehicle is designed and developed, and which is under the control and use of the manufacturer;**

**22. ‘ultra-small-volume manufacturers’ means a small-volume manufacturer as defined in point 19 which has registrations of less than 1 000 in the Union for the year prior to the one the type approval is granted”;**

(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~~ **compliance 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 introductory sentence~~ is 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~~ **shall, by means of implementing acts, lay down the** specific requirements **for the implementation of paragraph 2 as well as** ~~and developing~~ the specific procedures, tests and requirements for type-approval set out in ~~this paragraph~~ relating to ~~in particular~~:

**(a) tailpipe emissions, including test cycles, low ambient temperature emissions, emissions at idling speed, smoke opacity and correct functioning and regeneration of after-treatment systems;**

**(b) evaporative emissions and crankcase emissions;**

**(c) OBD systems and in-use performance of pollution control devices;**

**(d) durability of pollution control devices, replacement pollution control devices, in-service conformity, conformity of production and roadworthiness;**

**(e) measurement of greenhouse gas emissions and fuel consumption;**

**(f) hybrid vehicles and alternative fuel vehicles;**

**(g) extension of type approvals;**

**(ga) small-volume manufacturers and ultra-small-volume manufacturers, including phasing-in of those procedures, tests and requirements;**

**(h) test equipment;**

**(i) reference fuels, such as petrol, diesel, gaseous fuels and biofuels, such as bioethanol, biodiesel and biogas;**

**(j) measurement of engine power.**

**The above requirements shall be updated to adequately reflect inter alia real driving emissions and, where relevant, apply to vehicles regardless of the type of fuel by which they are powered.**

**The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 15(2). ”;**

(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~~ **by establishing** 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 N<sub>1</sub> class II and III and category N<sub>2</sub> 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<sub>1</sub> class II and III and category N<sub>2</sub> 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).

**New vehicles of category N1 class II and III and category N2 shall not be required to comply with Euro 6 limit values for NOx during any valid RDE test until 4 years after the date specified in the first subparagraph.**”;

(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, **is amended as follows:**

**(a)** 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 reviewing the particulate mass and particle number limit values set out in **Table 2 of** Annex I;
- (b) supplement this Regulation by the adoption of a revised measurement procedure for particle numbers.”

**(b) paragraph 3 is deleted:**

~~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 the pollutant-specific final conformity factors set out in Table 2a to Annex I.”;~~

**(c) the following paragraph 7 is added:**

**“7. The Commission shall keep under review the technical progress with regard to the measurement uncertainties linked with the use of the Portable Emission Measurement System (PEMS). By two years after the date of application, and every two years thereafter, the Commission shall submit to the European Parliament and to the Council a report on the undertaken review and, as appropriate, a legislative proposal with a view to revising downwards the value of the margin of measurement uncertainty of the pollutant-specific final conformity factors set out in Table 2a to Annex I.”**

(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.

**Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) 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*

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

“Table 2a

**Real Driving Emissions Conformity Factors**

	Oxides of nitrogen (NO <sub>x</sub> )	Number of particles (PN)	Carbon monoxide (CO) <sup>(+)</sup>	Total hydrocarbons (THC)	Combined hydrocarbons and oxides of nitrogen (THC + NO <sub>x</sub> )
$CF_{pollutant-final}^{(2)}$	1,43 <b><u>1 + margin</u></b> <b><u>(margin = 0,43)</u></b>	1,5 <b><u>1 + margin</u></b> <b><u>(margin = 0,5)</u></b>	-	-	-
$CF_{pollutant-temp}^{(3)}$	2,1	1,5	-	-	-

<sup>(+)</sup> ~~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~~ **measurement** uncertainties linked with the use of the Portable Emission Measurement Systems (PEMS), **composed of 1 + margin of measurement 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).”.