



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
CLIMATE ACTION  
Directorate B – Carbon Markets and Clean Mobility  
The Director

Brussels,  
CLIMA B3/(2023)

## REPLY OF DG CLIMA

**Interservice consultation initiated by:** DG GROW

**Reference:** Consultation ISC/2023/05298 (grow.i.2(2023) 6263990)

**Title:** Inter-service consultation on COMMISSION REGULATION amending Commission Regulation (EU) 2017/1151 as regards the emission type approval procedures for light passenger and commercial vehicles running exclusively on carbon neutral fuels

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- ☐ Positive opinion
- ☐ Positive opinion with comments
- ☒ Negative opinion (see attached comments)

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Thank you for consulting DG CLIMA on the proposed Commission Regulation, which notably aims to introduce type-approval provisions for vehicles running exclusively on CO<sub>2</sub> neutral fuels. This step is necessary for the proper recognition and treatment of these vehicles in view of Recital 11 of Regulation (EU) 2023/851.

DG CLIMA provides a negative opinion for the reasons explained below.

### **1. Strengthening of the type-approval process**

DG CLIMA would like to highlight that it is essential for the provisions introduced in the type-approval legislation to be robust and evasion-proof in ensuring that the vehicles concerned can exclusively function when using CO<sub>2</sub> neutral fuels, throughout their lifetime. Therefore, the proposed test to verify the functioning of the fuelling monitor and the fuelling inducement system plays a crucial role, both at the type-approval stage as well as when checking the conformity of production and the in-service conformity of these vehicles. It is essential that the type-approval authorities are responsible and accountable for verifying that these vehicles run exclusively on CO<sub>2</sub> neutral fuels. Additionally, it is essential that vehicle manufacturers remain responsible throughout the lifetime of the vehicles for the perfect functioning of the fuelling monitor and the fuelling inducement system, so to minimise the risk of any after-market misbehaviour. All such

provisions will provide trust and credibility in the system. Therefore, some provisions present in the proposed text need to be reinforced.

### *1.1. Type-approval (Article 3, Article 5)*

DG CLIMA is of the view that the proposed addition to paragraph 2 of Article 3 (requirements for type-approval) should be reinforced to ensure that an actual physical test is performed for the initial type-approval, while the proposed text may be interpreted as allowing any type of proof (e.g. paper proof).

The currently proposed text states: *“Vehicles running exclusively on carbon neutral fuels will additionally need to prove that they cannot run on any other fuel”*.

This should be amended into: *“For vehicles running exclusively on CO<sub>2</sub> neutral fuels a test of the functioning of the fuelling monitor and the fuelling inducement system shall be included, which proves that they cannot run on any other fuel, including blends of CO<sub>2</sub> neutral fuels and other fuels”*.

Besides, the proposed additions to Article 5 (application for type-approval) should also be reinforced. The manufacturers should be required to submit information on the measures taken to prevent tampering of the fuelling monitors and the fuelling inducement systems.

### *1.2. Conformity of Production (Article 8) and In-Service Conformity (Article 9)*

DG CLIMA is of the view that the proposed additions to Article 8 and Article 9 should be reinforced.

The ‘in-service conformity’ provisions in the type-approval framework have been significantly strengthened in response to the “dieselgate” to ensure robust verification of vehicles after they are placed on the market. This provision means that a sampling of vehicles already used in the real market are chosen and tested. The current text proposed could allow a type-approval authority to bypass this requirement if they test more vehicles in other categories (vehicles running on normal fuels). It is therefore crucial to ensure that vehicles running exclusively on CO<sub>2</sub> neutral fuels will be selected for this ‘in-service conformity’ requirement, to guarantee the robustness of the system and avoid any possible loophole.

Therefore, the legal text should explicitly specify that a significant number of vehicles running exclusively on CO<sub>2</sub> neutral fuels has to be tested for in-service conformity. More precisely, a minimum of 5 % of the ‘in-service conformity’ families<sup>1</sup> of CO<sub>2</sub> neutral fuel vehicles per manufacturer per year, or at least two ‘in-service conformity’ families of CO<sub>2</sub> neutral fuel vehicles per manufacturer per year, should be selected for ‘in-service conformity’ testing, as it is the case for pollutant related ‘in-service conformity’ tests. This should apply even if less than 5000 CO<sub>2</sub> neutral fuel vehicles of the ‘in-service conformity’ family are sold per year.

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<sup>1</sup> Vehicles of certain common characteristics (e.g. same internal combustion engine or same after-treatment system) may be grouped into ‘families’. The tests are performed on the basis of these families to reduce the testing burden.

To avoid that carbon neutral vehicles can use fossil fuels, the legal text should specify precisely: (i) that when national authorities perform the pollutant test, they also automatically perform the ‘exclusive carbon-neutral use test’<sup>2</sup>; (ii) if one vehicle fails the test, it is considered its family does not pass the test; (iii) that the consequences of such a fail decision are the same as the ones when failing a pollutants test. It would also be necessary to add an obligation on Member States to communicate to the Commission the necessary information to identify all vehicles within a family that has failed an ‘in-service conformity’ test.

## **2. Definition of CO<sub>2</sub> neutral fuels**

DG CLIMA notes that the Recital 11 of Regulation (EU) 2023/851 refers to “CO<sub>2</sub> neutral fuels” and not “carbon neutral fuels”, so it would be appropriate to align the terminology in the proposed Commission Regulation.

Moreover, DG CLIMA believes that the definition of ‘carbon neutral fuels’, as proposed, is not suitable. The definition refers to Article 25(2) of Directive (EU) 2018/2001, which sets a 70% threshold for greenhouse gas emission savings. This implies that fuels with remaining greenhouse gas emissions over their lifecycle would be considered as ‘CO<sub>2</sub> neutral’, which does not accurately reflect their actual net impact.

The proposal for a Directive on common rules for the internal markets in renewable and natural gases and in hydrogen (COM(2021) 803), adopted by the Commission in December 2021, includes a definition of ‘low-carbon fuels’ referring to a 70% reduction of greenhouse gases. Referring to the same 70% threshold for the definition of “carbon neutral fuels” would therefore not be in line with previously adopted legislation.

In order for the considered fuel to be considered CO<sub>2</sub> neutral, 100% greenhouse gas emission savings must be achieved.

With the proposed definition, allowing the introduction of vehicles running exclusively on CO<sub>2</sub> neutral fuels into the market after 2035 risks hampering the achievement of our climate targets, creating a precedent for considering a “carbon neutral” technologies reducing only 70% emissions as compared to fossil fuels.

**Therefore, it is imperative that the definition only includes renewable transport fuels of non-biological origin (RFNBO) which have greenhouse gas emission savings of 100%.** In addition, it is necessary to explicitly specify that the methodology to calculate the greenhouse gas emissions savings of RFNBO shall be the one enshrined in Commission Delegated Regulation (EU) 2023/1185<sup>3</sup>, and the rules on additionality are fully taken into account in line with Commission Delegated Regulation (EU) 2023/1184<sup>4</sup>.

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<sup>2</sup> The ‘exclusive carbon-neutral use test’ means the verification of the functioning of the fuelling monitor and of the fuelling inducement system.

<sup>3</sup> Specifying a methodology for assessing greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels.

<sup>4</sup> Establishing a Union methodology setting out detailed rules for the production of renewable liquid and gaseous transport fuels of non-biological origin.

(e-signed)

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