

Frequently asked questions on pooling

September 2019

1. What is a pooling agreement?

For the purposes of meeting their specific emissions targets, manufacturers of passenger cars or vans may decide to conclude a pooling agreement pursuant to:

- Until 31 December 2019:
 - Article 7 of Regulation (EC) No 443/2009¹ (cars);
 - Article 7 of Regulation (EU) No 510/2011² (vans);
- From 1 January 2020:
 - Article 6 of Regulation (EU) No 2019/631³ (cars and vans).

A pooling agreement may be formed only between manufacturers of the same category of vehicles (i.e. either between manufacturers of passenger cars or between manufacturers of light commercial vehicles).

A pool is considered as one manufacturer for the purpose of compliance with a specific CO₂ emissions target.

Each year, the Commission will calculate the specific emissions target of the pool on the basis of the average mass of all new vehicles of the members of the pool, that have been registered in the EU, Norway and Iceland in that calendar year. The average specific emissions of CO₂ of those vehicles must not exceed that target.

2. Who can apply?

All manufacturers covered by the scope of the above-mentioned Regulations, who have not been granted a derogation, may form a pool.

3. Can a manufacturer join several pools at the same time?

A manufacturer can only be member of one pool in a given calendar year. All new registrations of a manufacturer that is member of a pool will be taken into account for the calculation of the pool's average specific emissions of CO₂ in that year.

4. What is the difference between "open" and "closed" pools?

There are two types of pools referred to in the Regulations:

- a) Closed pools⁴: a closed pool is formed solely by manufacturers that are part of a group of connected undertakings;

¹ Regulation (EC) 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, OJ L 140, 5.6.2009, p. 1.

² Regulation (EU) 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles, OJ L 145, 31.5.2011, p. 1.

³ Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) 443/2009 and (EU) 510/2011 (recast), OJ L 111, 25.4.2019, p. 13.

- b) Open pools⁵: these are pools where at least one pool member is not part of the same group of connected undertakings as the other members. An open pool has to meet the following conditions:
- To comply with the competition rules (Articles 101 and 102 of the Treaty on the Functioning of the European Union);
 - To allow for open, transparent and non-discriminatory participation on commercially reasonable terms by any manufacturer requesting membership of the pool;
 - Not to share data or exchange information in the context of the agreement other than the average specific emissions of CO₂, the specific emissions target and the total number of vehicles registered.

For more information on open pools, please consult the following [Guidance](#).

5. Who is the pool manager and what are his/her obligations?

For each pool, a pool manager must be nominated. The pool manager should be a representative of one of the pool members. The pool manager will be the contact point for the pool. Each year, the Commission will notify the pool manager of the provisional and final calculation of the number of new vehicles of the pool registered in the EU Member States, Iceland and Norway, their specific emissions of CO₂ and the pool's specific emissions target.

In addition, the pool manager will be responsible for the payment of any excess emissions premium that would be imposed on the pool.

6. How to notify a pooling agreement?

Manufacturers wishing to notify a pooling agreement are requested to notify the Commission with a joint declaration (a form is available [here](#) for cars and [here](#) for vans). The pooling declaration must be submitted in electronic format and via post/courier.

An e-mail shall be sent to the following functional mailbox: [EC-CO2-LDV-IMPLEMENTATION\(at\)ec.europa.eu](mailto:EC-CO2-LDV-IMPLEMENTATION(at)ec.europa.eu). The printed version shall be sent to the following address:

European Commission
Secretariat General
1049 Brussels
Belgium

7. What documents should be attached to the pooling declaration?

The pool manager is requested to notify the Commission with:

- the joint declaration of the manufacturers forming a pool (a form is available [here](#) for cars and [here](#) for vans); note that the declaration should be adapted in case of an open pool arrangement by removing the statement referring to connected undertakings in point 1 of the declaration;

⁴ Article 7(6) of Regulations (EC) 443/2009 and (EU) 510/2011 and Article 6(6) of Regulation (EU) 2019/631.

⁵ Article 7(5) of Regulations (EC) 443/2009 and (EU) 510/2011 and Article 6(5) of Regulation (EU) 2019/631.

- the evidence that the pool manager will be able to fulfil the obligation to pay the excess emissions premium imposed on the pool. The Commission proposes a declaration outlining the joint and several liability of the pool members to ensure this payment (see 4th paragraph in the declaration). Note that in the absence of evidence that the pool manager will be able to pay the excess emissions premium, the Commission will not consider the pooling agreement valid and will notify the manufacturers concerned accordingly.

Concerning open pools, please see separate [Guidance](#) for further information.

8. When to notify a pooling agreement?

The pool manager should notify the Commission of a pooling agreement by submitting the joint pooling declaration no later than 31 December of the first calendar year for which the agreement shall apply. It is not possible to form a pool retroactively.

For example, if a pooling agreement is notified in January 2025 stating that the pooling should cover the calendar years from 2024 until 2028, that pool will not be valid for the calendar year 2024, since it was notified too late. However, the Commission will consider 2025 as the first calendar year from which the notified pooling agreement is applicable.

For open pools, the submission of the joint pooling declaration must be preceded by a declaration of interest to form a pool, to be submitted at the latest by 31 October of the first year for which the pooling agreement shall apply. For more information, see the separate [Guidance](#).

9. Duration of the agreement?

An agreement to form a pool may relate to one or more calendar years, with a maximum duration of 5 calendar years. The pooling agreement may be renewed. Pooling agreements can only refer to full calendar years (i.e. 1 January to 31 December).

Unless otherwise indicated, the Commission will consider the year in which a pool was notified as the first year in which the pooling agreement is applicable. If the manufacturer would like the pooling agreement to start later than the year in which the pool was notified, the notification should clearly indicate the starting date.

10. Can a pool be dissolved?

A pool can be dissolved provided that all members of the pool agree. In case the manufacturers decide to dissolve the pool before the date indicated in the notification, the Commission should be notified by the pool manager with a joint declaration of all members of the pool confirming that they agree to put an end to the pooling agreement with effect from a specific calendar year.

In case any of the conditions for forming a pool are not met anymore, the Commission should be notified immediately by the pool manager with a joint declaration of all manufacturers asking to dissolve the pool. Unless an immediate dissolution of the pool is requested in the notification, the pooling agreement will be deemed to cease with effect from the calendar year following the year in which the Commission was notified of the change in conditions.

11. What to do in case of change of circumstances?

The members of the pool must jointly inform the Commission of a change of pool manager or its financial status. In both cases, new evidence of the pool manager's ability to pay any excess emissions premium should be submitted.

Other changes in the composition of the pool, i.e. new members joining or leaving the pool must be jointly notified too.

12. What to do if a company wants to leave the pool?

Once a pooling declaration is filed with the Commission, all members of the pool are committed to the pool for the duration specified in the declaration. The pool members must jointly notify the Commission of any change of composition of the pool.

If one or more manufacturers decides to leave the pool at an earlier date, or if the pool is dissolved, all manufacturers included in the pool shall jointly inform the Commission thereof. If a new manufacturer wants to join an existing pool and is accepted by all members of the pool, a new pooling declaration will be notified to the Commission.

The changes notified to the Commission will apply as from the calendar year in which the Commission is informed or from one of the following calendar years, as agreed by all manufacturers in the joint declaration.

13. Manufacturers outside the EU

Manufacturers that are based outside the EU, must in accordance with Article 5(3) of Directive 2007/46/EC on Type-Approval⁶ appoint a representative established in the European Union to represent him before the approval authority". In the case of a pooling agreement, only the EU representative should be indicated in the joint declaration.

14. Will the manufacturers receive an acknowledgement of the notification?

The Commission will acknowledge receipt of the joint pooling declaration. In case of incomplete notification, the Commission will contact the pool manager to request complementary information.

15. What information will be made public?

A list of notified pooling agreements is published on [CIRCABC](#). It indicates the manufacturers that are members of each pool and the calendar years in which the pooling agreement is in place.

16. Can a pool benefit from super-credits?

The legislation⁷ provides an incentive for the deployment of passenger cars emitting less than 50 g CO₂/km, by counting them as more than one vehicle for the purpose of determining the average specific emissions of CO₂ of a manufacturer. Each of those cars will be counted as:

- 2 cars in 2020;
- 1.67 cars in 2021;
- 1.33 cars in 2022.

This regime is subject to a cap of 7.5 g CO₂/km over the period 2020 to 2022 for each manufacturer.

⁶ 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. 1-160.

⁷ Article 5a of Regulation (EC) No 443/2009 and Article 5 of Regulation (EU) No 2019/631

As pools are treated as a single manufacturer for the purpose of calculating their average specific emissions of CO₂, the super-credit savings will be calculated and applied at the level of the pool and the 7.5 g CO₂/km cap will apply to the pool as a whole.⁸

17. In case of changes to the composition of a pool, how are the remaining super-credit savings under the cap re-calculated?

In the case of changes in the membership of an existing pool during the period from 2020 to 2022, the following principles apply.

- Where a manufacturer leaves a pool, it is considered to have used during its pool membership the same amount of super-credit savings (g CO₂/km) as the pool in its entirety.
- Where a new pool is formed in 2021 or 2022, the amount of super-credit savings (g CO₂/km) previously used by that pool is calculated as the average of the savings used by each of the pool members, weighted on the basis of each member's number of zero- and low emission vehicles in the year the new pool is formed.

Examples:

In 2020, a pool consisting of manufacturers A, B and C uses 2 g CO₂/km of super-credit savings. Manufacturer D is not member of a pool and uses 1 g CO₂/km of super-credit savings.

Case 1: In 2021, A leaves the pool, while B and C stay in the pool. D continues to be an individual manufacturer.

This means the following in terms of super-credits used in 2020 and the amount remaining for use in 2021-2022:

- A has used 2 g CO₂/km of super-credits (same amount as the pool A/B/C), so it has a maximum of 5.5 g CO₂/km left.
- The new pool B/C has used 2 g CO₂/km of super-credits (weighted average of super-credits used by B and C), so it has a maximum of 5.5 g CO₂/km left.
- D has used 1 g CO₂/km of super-credits and has a maximum of 6.5 g CO₂/km left.

Case 2: In 2021, the pooling configuration is the same as for Case 1. A uses 2 g CO₂/km of super-credit savings, pool B/C uses 4 g CO₂/km and D uses 3 g CO₂/km.

In 2022, D joins the pool B/C. In 2022 B and C together have 20 000 cars registered with emissions below 50 g CO₂/km and D has 10 000 of such cars registered.

This means the following in terms of super-credits used until 2021 and the amount remaining for use in 2022:

- A has used 4 g CO₂/km of super-credits and has a maximum of 3.5 g CO₂/km left for 2022.
- The former pool B/C has used 6 g CO₂/km of super-credits until 2021 (1.5 g CO₂/km left) and D has used 4 g CO₂/km of super-credits (3.5 g CO₂/km left).

⁸ Commission Notice — Guidance on the monitoring and reporting of data on the registration of new light-duty vehicles, OJ C 218, 7.7.2017, p. 1.

- The new pool B/C/D therefore has 2.17 g CO₂/km of super-credits left for use in 2022 (weighted average of 1.5 (B/C) and 3.5 (D) taking into account the number of cars registered in 2022 by B, C and D with emissions below 50 g CO₂/km).

18. In case of non-compliance, who is responsible for payment of excess emissions premium?

It will be the pool manager's responsibility to pay any excess emissions premium imposed on the pool. It is for the pool members to arrange within the pool the conditions of any necessary transfers of funds. For example, if the pool members accept the joint and several liability provision (see point 9, 4th paragraph in the declaration) to fulfil the obligation to pay the premium, the pool members will be liable if the pool manager fails to meet the requirement to pay any excess emissions premium imposed on the pool.

19. How will CO₂ emissions be reported?

The Commission will notify each individual member of the pool of its average specific CO₂ emissions⁹. Furthermore, the Commission will notify the pool manager of the average specific emissions of the pool. Both individual emissions data and the average emissions for the pool will be entered into the European Environment Agency's Business Data Repository (BDR).

The final data will be published for each pool in the Commission's annual decisions confirming or amending the provisional calculation of the average specific emission of CO₂ and specific emissions targets for manufacturers of passenger cars and light commercial vehicles.

The data are made available under the following hyperlinks:

- Cars: <https://www.eea.europa.eu/data-and-maps/data/co2-cars-emission-16>
- Vans: <https://www.eea.europa.eu/data-and-maps/data/vans-12>

⁹ Article 8(4) of Regulations (EC) 443/2009 and (EU) 510/2011 and Article 7(4) of Regulation (EU) 2019/631