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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2026) 619 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC as regards revised benchmark values for the heat and fuel benchmarks for the period from 2026 to 2030

Delegations will find attached document COM(2026) 619 final.

Encl.: COM(2026) 619 final

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Brussels, 17.7.2026
COM(2026) 619 final

2026/0211 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/87/EC as regards revised benchmark values for the heat and fuel benchmarks for the period from 2026 to 2030

{SEC(2026) 616 final} - {SWD(2026) 616 final} - {SWD(2026) 617 final} - {SWD(2026) 618 final}

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

In recital (16) of Commission Implementing Regulation (EU) 2026/1412 of 26 June 2026 determining revised benchmark values for free allocation of emission allowances for the period from 2026 to 2030[1] , the Commission committed to propose, at the same time as its proposal to revise the ETS Directive, a stand-alone proposal solely to increase free allocation levels determined by the heat and fuel benchmarks ('fallback benchmarks') up to 2030, while ensuring the increase does not trigger the application of the cross-sectoral correction factor.

• Consistency with existing policy provisions in the policy area and with other Union policies

All sectors of the economy should contribute to the reduction of greenhouse gas emissions. The present proposal relates to free allocation determined by the heat and fuel benchmarks until 2030 and aims at enhancing (without triggering the application of the cross-sectoral correction factor) protection from carbon leakage through an increase of the corresponding free allocation levels for the period from 2026 to 2030.

The changes introduced will be reflected in a Commission Implementing Regulation amending the Commission Implementing Regulation on revised benchmark values for free allocation of emission allowances, as well as a Commission Decision amending the preliminary amounts of free allocation determined for the period from 2026-2030.

This proposal is solely on allocation levels determined by the heat and fuel benchmarks up to 2030, and all other issues are addressed in the broader proposal to amend the ETS Directive[2], including rules for benchmark values for the periods from 2031. The Explanatory Memorandum to that proposal and its Impact Assessment[3] explain the wider context.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal base is the same (Article 192(1) of the Treaty on the Functioning of the European Union) as for the main ETS proposal, COM(2026) 616, as it addresses one element of the overall revision.

• Subsidiarity (for non-exclusive competence)

Free allocation is harmonised in the EU ETS and administered at national level under harmonised Union-wide rules.

• Proportionality

This proposal increases certain free allocation levels determined by the fallback benchmarks until 2030. It does not go beyond what is necessary to ensure timely and effective support to the sectors concerned and is designed in order not to trigger the application of the cross-

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1. Commission Implementing Regulation (EU) 2026/1412 of 26 June 2026 determining revised benchmark values for free allocation of emission allowances for the period from 2026 to 2030 pursuant to Article 10a(2) of Directive 2003/87/EC of the European Parliament and of the Council, C/2026/4372 (OJ L, 2026/1412, 29.6.2026, ELI: http://data.europa.eu/eli/reg_impl/2026/1412/oj).
2. COM(2026) 616.
3. SWD(2026) 616.

sectoral correction factor, thereby avoiding negative redistribution effects on free allocation determined on the basis of the product benchmarks.

- **Choice of the instrument**

The objectives of this proposal can be best achieved pursuant through a Regulation. This is the most appropriate legal instrument to introduce amendments to the existing ETS Directive as regards rules concerning the update of the benchmark values since those do not require transposition by Member States. In addition, the update of the benchmark values is implemented directly by the Commission in accordance with the empowerment in Article 10a(2), third subparagraph of the ETS Directive.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The Explanatory Memorandum to the proposal to amend the ETS Directive[4], and its Impact Assessment[5] explain the wider context, including ex post evaluation and fitness check of the ETS Directive.

- **Stakeholder consultations**

The Commission consulted the expert group on free allocation on the benchmark values for the period 2026-2030 in different stages of the process leading up to their determination, with preliminary results presented on 5 November 2025, 15 December 2025 and 21 January 2026.

The update of ETS benchmark values for 2026-2030 has been published for public feedback between 11 May until 8 June 2026 and received more than 400 replies. More than 50% of the feedback came from companies and 38% from business association. Overall, most of the feedback concerned the fallback benchmarks update and asked to establish sector-specific fall-back benchmarks. Some respondents asked to freeze the benchmarks and more transparency. More positive comments welcomed the inclusion of indirect emissions in benchmarks previously subject to exchangeability and urged for a swift adoption of the regulation for clarity. Finally, proposals for the introduction of a different methodology were submitted but none that could be implemented within the existing legal framework set by the ETS Directive.

On 3 June, two expert group meetings were held, one with the Member States, and one with Member States and industry representatives on the update of ETS benchmark values for the years 2026-2030. The option for sector-specific fallbacks was presented to Member States and highlighted as generating insufficient increase to free allocation levels until 2030 calculated on the basis of fallback benchmarks for sectors at higher risk of carbon leakage due to limited availability of abatement techniques and measures. This proposal therefore includes an adjustment to the maximum update rate for fallback benchmark ensuring the highest possible increase of free allocation determined on the basis of the fallback benchmarks until 2030, without triggering the application of the cross-sectoral correction factor, as committed in recital (16) to Implementing Regulation 2026/1412 and voted by the Climate Change Committee on the 15th of June 2026.

[4] COM(2026) 616.
[5] SWD(2026) 616.

- **Impact assessment**

A single overall impact assessment accompanies both this proposal and the parallel Commission proposal to revise the ETS Directive and was submitted to the Regulatory Scrutiny Board (RSB) on 23 March 2026. The Explanatory Memorandum to the proposal to revise the ETS Directive explains the wider context. The impact assessment includes the consistency check of Article 6(4) of the European Climate Law, which requires the Commission to assess the consistency of any EU draft measure or legislative proposal with the Climate Law's objectives, such as the EU's climate-neutrality objective.

In Annex 12 to the Impact Assessment, an improved current approach on free allocation has been assessed. As regards benchmarks, policy option 'CL1' in that Annex provided for the following approach: Benchmarks will continue to be set by the average performance of the 10% best performing installations, taking into account the minimum and maximum update rates and the rules for extrapolation of the trend to the mid-point of the relevant five-year allocation period. However, to address the main concerns raised by industry stakeholders and Member States during the various stages of consultation of the recently adopted Benchmark Regulation, fallback benchmarks should be differentiated to take into account the specificities and emission reduction potential of the different sectors.

The proposal differs from the policy option included in the impact assessment as regards the fallback benchmarks. The sector-specific approach included in the impact assessment would deliver an increase to free allocation to a limited number of sectors only, as the same maximum update rate would still apply. Discussions with Member States and stakeholders in the Climate Change Expert Group (CCEG) on free allocation issues on 3 June 2026 confirmed that the corresponding overall increase to free allocation levels until 2030 was insufficient to address the higher vulnerability to carbon leakage of certain sectors where the fallback benchmarks apply and in which limited abatement techniques and measures are available. Instead, the present proposal ensures the highest possible increase to free allocation levels determined on the basis of fall-back benchmarks for the 2026-2030 period, without triggering the application of the cross-sectoral correction factor pursuant to Article 10a(5) of the ETS Directive.

- **Regulatory fitness and simplification**

Limited administrative burden will result from this proposal. The proposal relies solely on existing processes, involving both national competent authorities and the Commission, towards establishing the level of free allocation to be allocated each year to installations in the EU ETS in accordance with Article 11 of the ETS Directive. It implies a follow up revision of Commission Delegated Regulation (EU) 2019/331 of 19 December 2018[6]. The amendments do not require transposition in national laws. Finally, no additional data collection exercise will be needed since the relevant dataset is already available. Indeed, pursuant to point (c) in the third subparagraph of Article 10a(2) of the ETS Directive, the information submitted by Member States for the years 2021 and 2022 in the list referred to in Article 11 of the ETS Directive is to be used as reference for the update of the benchmark values for the period from 2026 to 2030.

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[6] Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, pp. 8–69).

4. BUDGETARY IMPLICATIONS

The proposal relies on existing processes, involving both national competent authorities and the Commission, towards establishing the level of free allocation to be allocated each year to installations in the EU ETS in accordance with Article 11 of the ETS Directive. For the implementation of the proposal, no additional data is collected and no additional human and administrative resources are required. The additional free allocation to be granted under this proposal does not impact the budget, given that the financial value of the allowances to be used is not attributed to the budget of the European Commission. Therefore, no additional budgetary implication is induced by the present proposal.

The proposal does not meet the criteria that would trigger digital relevance. It does not impose binding requirements concerning a digital public service with implications for cross-border interoperability, and does not affect the design, development, or implementation of digital public services or the networks and information systems supporting them. Neither does it require the establishment of IT systems or digital infrastructure co-owned by the European Commission and Member States. Furthermore, the proposal does not introduce monitoring, reporting, or other business-agnostic processes that are likely to be automated or digitally implemented.

Given the absence of both financial implications and digital relevance, an accompanying Legislative Financial and Digital Statement (LFDS) is not necessary for this proposal.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting

The Commission will continue to monitor and evaluate the functioning of the ETS in its annual Carbon Market Report, as foreseen under Article 10(5) of the ETS Directive. It will cover the impacts of the current revision of the ETS. The Carbon Market Report relies on the analysis of the evaluation of progress on the application of the ETS Directive that is regulated in Article 21 of the ETS Directive, which requires Member States to report to the Commission on issues including the allocation of allowances, operation of the Registry, application of monitoring and reporting, verification and accreditation and issues relating to compliance. The annual Carbon Market Report and Member States reporting also apply to the sectors to which emissions trading is extended. The MRV data obtained through the regulation of the new sectors will be a key source for information for the Commission to evaluate progress in the sectors concerned.

The integrated governance and monitoring process under the Regulation on the Governance of the Energy Union and Climate action is also expected to make sure that climate and energy-related actions at European, as well as regional, national and local level, including the ETS, contribute to the EU climate neutrality and Energy Union's objectives. Several market analysts closely follow various aspects of the carbon market and its functioning, and the Commission will continue to monitor this work.

Through regular contacts with stakeholders, the Commission is alert to their views and concerns about the functioning of the ETS. ETS-related matters are discussed in a dedicated forum, the Climate Change Expert Group (CCEG) which brings together Member States competent authorities, stakeholders (industry associations and NGOs) and the Commission. In its different formations, the CCEG discusses, among other aspects, the implementation of free allocation, auctioning and issues related to the functioning of the Union Registry. Update to the rules on benchmarks have been and will keep being presented and discussed in the formation of the CCEG dedicated to free allocation. In addition, the ETS Compliance Forum provides the competent authorities of all ETS countries (the 27 Member States, Norway, Iceland and Liechtenstein) with a platform for sharing information, learning and experience, leading to effective implementation of the ETS. The forum executes targeted events, such as the Compliance Forum Conference, organized annually and aimed at sharing experiences and facilitating dialogue amongst Member States competent authorities, as well as task forces dedicated to specific topics and training events. National Accreditation Bodies and verifiers are sometimes invited to participate to the activities of the ETS Compliance Forum, where relevant.

- **Detailed explanation of the specific provisions of the proposal**

This proposal amends Article 10a as concern the determination of the revised values for the heat and fuel benchmarks until 2030. The main changes introduced are the following:

The proposal provides for the adjustment to the maximum annual update rate to be applied to heat and fuel benchmarks for the update by the Commission of those benchmark values until 2030. In that case, the adjusted percentage rate value to be applied will reflect the highest possible upwards adjustment to free allocation levels determined by the heat and fuel benchmarks by fully using the available allowances that can be allocated free of charge for 2026 to 2030, amounting to around 80 million allowances, while at the same time not triggering the application of the cross-sectoral correction factor. The minimum update rate remains unchanged. The reference periods, datasets and overall methodology to update the benchmark values remain unchanged. The benchmark values will be adjusted for the period from 2027 to 2030. The adjustment to free allocation levels for the year 2026 will be implemented through an update of the benchmark values for the year 2027 applying a maximum update percentage rate value that makes use of 40 % of the additional amount referred to in Article 10a(5a) and ensures that no reduction pursuant to Article 10a(5) applies.

2026/0211 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/87/EC as regards revised benchmark values for the heat and fuel benchmarks for the period from 2026 to 2030

(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 192(1) 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[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Free allocation to installations in the system for greenhouse gas emission allowance trading within the Union (EU ETS) is determined based on harmonised Union-wide benchmarks reflecting the performance of the most efficient installations. The ex-ante Union-wide benchmarks are established in Annex I to Commission Delegated Regulation (EU) 2019/331[3]. The Commission updates the benchmark values for each five-year period for free allocation referred to in Article 11 of Directive 2003/87/EC in accordance with the rules laid down in Article 10a of that Directive.

(2) To address concerns expressed by certain industrial sectors in the context of updating the benchmark values until 2030 and provide additional protection against the risk of carbon leakage, the quantity of allowances to be allocated for free for the period from 2026 to 2030, determined by the heat and fuel benchmarks (‘fallback benchmarks’), should be increased. In order to do so, it is appropriate to adjust the maximum annual update rate applied for the fallback benchmarks by using the totality of the allowances available for free allocation in the period from 2026 to 2030 as laid down in Commission Decision XXX[4] [CSCF Decision], amounting to around 80 million allowances. In line with the targeted nature of this adjustment and the rules set out in in Commission Delegated Regulation (EU) 2019/331 on the determination of the

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1 OJ C , , p. .

2 OJ C , , p. .

3 Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8, ELI: http://data.europa.eu/eli/reg_del/2019/331/oj).

4 [*please insert the full reference once available – CSCF Decision*]

annual amount of allowances allocated for free to installations, the additional free allocation resulting from the adjustment should only concern the amounts determined by the fallback benchmarks.

(3) To avoid unnecessary administrative burden for operators and public authorities related to the adjustments of free allocation decisions and the transfer of allowances to operators' accounts, the benchmark values should be adjusted for the period from 2027 to 2030, while the additional free allocation amounts for the year 2026 should be made available together with the free allocation for the year 2027. To ensure sufficient time is provided for to reflect this adjustment in the context of Regulation (EU) 2023/956 of the European Parliament and of the Council[5], the resulting adjustment to free allocation levels for the year 2026 should be implemented through the corresponding update of the benchmark values for the year 2027.

(4) To preserve the level playing field and prevent negative effects on free allocation determined on the basis of the product benchmarks, it is necessary to ensure that the adjusted percentage rate value for the maximum annual update rate used to determine the fallback benchmarks until 2030 does not trigger the application of the cross-sectoral correction factor pursuant to Article 10a(5) of Directive 2003/87/EC.

(5) To further incentivise decarbonisation, it is appropriate for the existing maximum update rate for fallback benchmarks established under Article 10a(2), third subparagraph, point (d), of Directive 2003/87/EC for the period from 2026 to 2030 to continue to be applicable to installations carrying out oil and gas activities, including as regards the free allocation amounts determined on the basis of the fallback benchmarks. To further operationalise the differentiated treatment between oil and gas activities and other activities the fallback benchmarks are applied to, the Commission should establish the corresponding sector specific sub-benchmarks under the ex-ante heat and fuel benchmarks for activities covered by NACE codes 0610, 0620, 1920 and 4950 set out in Annex I to Regulation (EC) No 1893/2006 of the European Parliament and the Council[6].

(6) Directive 2003/87/EC should therefore be amended accordingly.

(7) To ensure a swift increase of free allocation levels determined on the basis of the fallback benchmarks that reflect the revised maximum annual update rate value, and to ensure that those additional amounts are made available as of the determination of free allocation for the year 2027, this Regulation should solely address allocations under those benchmarks within the amount of allowances available and enter into force on the third day following that of its publication,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2003/87/EC

Directive 2003/87/EC is amended as follows:

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[5] Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, pp. 52–104).

[6] Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1, ELI: http://data.europa.eu/eli/reg/2006/1893/oj).

(1) in Article 10a, the following paragraphs 2a and 2b are inserted after paragraph 2:

‘2a. By way of derogation from paragraph 2, third subparagraph, point (d), of this Article, the maximum annual reduction rate to be applied for the update of the benchmark values for heat and fuel benchmarks for the period from 2027 to 2030 shall be reduced to a percentage rate value that makes full use of the additional amount referred to in Article 10a(5a) and ensures that no reduction pursuant to Article 10a(5) applies.

Concerning the update of the benchmark values for heat and fuel benchmarks for the year 2027, the maximum annual reduction rate to be applied shall be reduced to a percentage rate value that makes use of 40 % of the adjustment pursuant to the first subparagraph and ensures that no reduction pursuant to Article 10a(5) applies.

2b. Paragraph 2a shall not apply to free allocations for installations carrying out economic activities covered by NACE codes 0610, 0620, 1920 and 4950 set out in Annex I to Regulation (EC) No 1893/2006 of the European Parliament and the Council*.

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* Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1, ELI: http://data.europa.eu/eli/reg/2006/1893/oj).’

Article 2

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