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From:	General Secretariat of the Council
To:	Delegations
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 - Letter to the Chair of the European Parliament Committee for Environment, Public Health and Food Safety (ENVI)

Following the Permanent Representatives Committee meeting of 18 November 2026 which endorsed the final compromise text with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annex, to the Chair of the European Parliament Committee for Environment, Public Health and Food Safety (ENVI).

Council of
the European Union

SGS 26 / 3678

Brussels, 18 November 2026

Mr Pierfrancesco MARAN
Chair, European Parliament Committee for Environment, Public Health and Food Safety

European Parliament
60, rue Wiertz / Wiertzstraat 60
B-1047 Bruxelles/Brussel

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 (2026/0211 (COD))***

Dear Mr MARAN,

Following the informal meeting between the representatives of the three institutions on 12 November 2026, the provisional overall compromise text for a 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 was agreed today by the Permanent Representatives' Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise text contained in the Annex to this letter (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council, I also wish to thank you for your close cooperation which should enable us to reach agreement on this dossier at first reading.

Yours sincerely,

Cáit MORAN

Chair of the Permanent Representatives Committee (Part 1)

copy to: Wopke HOEKSTRA, Commissioner,
Adam JARUBAS, Rapporteur

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:

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1 OJ C , , p. .
2 OJ C , , p. .

(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 ***Implementing*** Decision ***(EU) 2026/1862*** [4], amounting to around ***88*** million allowances***, as well as 28 million*** allowances ***that are not*** allocated ***in that period as a result of the reduction of free allocation under the third and fifth subparagraphs of Article 10a(1) of Directive 2003/87/EC. The use of*** the additional ***allowances for*** free allocation ***corresponds to an indicative 10 % reduction to*** the fallback benchmarks ***compared to the values for the period from 2021 to 2025, namely an indicative average value heat and fuel benchmarks for the period from 2026 to 2030 of 42 and 38 allowances/TJ, respectively***. ***In order to make full use of the additional amount referred to in Article 10a(5a) of Directive 2003/87/EC for the purpose of adjusting the maximum annual update rate applicable to the update of the benchmark values for heat and fuel benchmarks for the period from 2027 to 2030, it is necessary to acknowledge that the corresponding quantity of allowances, in the absence of such adjustment, would otherwise be used, pursuant to Article 10a(5b) of that Directive, to support the Innovation Fund, amounting to 50***

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[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]

million allowances, and the Modernisation Fund, amounting to approximately 38 million allowances.

(2a) From those unallocated allowances under the third and fifth subparagraphs of Article 10a(1) of Directive 2003/87/EC, following the general adjustment of the fallback benchmarks for the period from 2026 to 2030, an amount of allowances of up to 5 million allowances should be available for free allocation to installations covered by fuel benchmarks in the period from 2026-2030 to allow for the application of the sector-specific benchmarking methodology developed under Article 10a(2ba) of Directive 2003/87/EC. Any remaining allowances under the sixth subparagraph of Article 10a(1) thereafter should be made available to the Innovation Fund and Modernisation Fund in equal parts. 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 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. For the purpose of establishing the benchmark values pursuant to Article 10a(2a), point (b), of that Directive, where the emission performance of the manufacturing processes within the 10 % most efficient installations in a sector is higher than the average emission intensity of the 10% most efficient installations for the calculation of the Union-wide ex-ante fuel benchmark, sector-specific fuel benchmarks should be established to ensure that free allocation reflects the performance of the most efficient sub-installations within a sufficiently homogeneous peer group. Those sector-specific fuel benchmarks should apply in place of the general fuel benchmark. To that end, with a view to applying such benchmarks only to the second update of the fuel benchmarks under this Regulation concerning the period 2026-2030, the Commission should establish as soon as possible after the revision of Commission Delegated Regulation (EU) 2019/331, by means of implementing acts, updated benchmark values for the relevant sectors. Sector specific benchmark values should correspond to the average greenhouse gas emission intensity of the best performing 10% of installations in the relevant sector and be calculated using the same reference period, dataset and methodology as the general fuel benchmark already collected and assessed by the Commission in the preparation phase of this proposal.

(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 ***general fallback benchmark and sector-specific fuel*** benchmark values should be adjusted for the period from 2027 to 2030 ***and 2028 to 2030, respectively. Relating to the update of the general fallback benchmark values,*** the additional free allocation amounts for the year 2026 should be made available together with the free allocation for the year 2027. ***Relating to the update of the sector-specific fuel benchmark values, the additional free allocation amounts for the years 2026 and 2027 should be made available together with the free allocation for the year 2028.*** To ensure sufficient time is provided for to reflect ***these adjustments*** in the context of Regulation (EU) 2023/956 of the European Parliament and of the Council[5], the resulting ***adjustments*** to free allocation levels for the year 2026 ***and years 2026 and 2027, respectively,*** should be implemented through the corresponding ***updates*** of the benchmark values for the ***years 2027 and 2028, respectively***.

(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.

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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).

(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].

(5a) To ensure that the update of the heat and fuel benchmark values does not lead to a successive and circular increase in the amount of free allocation reduced under Article 10a(1) sixth subparagraph, it is appropriate that the 20% reduction of free allocation does not take into account the update of the benchmark values for heat and fuel benchmarks according to paragraph 2a of that Article.

(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 ***values***, and to ensure that those additional amounts are made available as of the determination of free allocation for the year 2027 ***relating to the update of the general fallback benchmark values and 2028, relating to the update of the sector-specific fuel benchmark values***, 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,

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[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).

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2003/87/EC

Directive 2003/87/EC is amended as follows:

(0) in Article 10a (1), the sixth subparagraph is replaced by the following:

'Allowances that are not allocated due to a reduction of free allocation in accordance with the third and fifth subparagraphs of this paragraph shall be used as follows:

(a) 28 million allowances shall be used for the purposes of paragraph 2a, first subparagraph, point (a);

(b) 5 million allowances shall be set aside for the purposes of paragraph 2a, first subparagraph, point (b).

Any remaining allowances from this subparagraph shall be used, in equal parts, to increase the amount of allowances available for the modernization of energy systems in certain Member States in accordance with Article 10d and to support innovation in accordance with paragraph 8 of this Article.'

(1) in Article 10a, the following paragraphs ▌ 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 ***shall be reduced in accordance with the following rules:***

(a) for the period from 2027 to 2030***, the maximum annual reduction rate*** shall be reduced to a percentage rate value that makes full use of the additional amount referred to in ***paragraph 5a and of the allowances referred to in paragraph 1, sixth subparagraph, point (a),*** and ensures that no reduction pursuant to ***paragraph 5 applies;***

(b) for the period from 2028 to 2030, where sector-specific fuel benchmarks have been established pursuant to paragraph 2ba, the maximum annual reduction rate for those benchmarks shall be reduced to a percentage rate value that makes use of the amount referred to in paragraph 1, sixth subparagraph, point (b), to the extent necessary to cover for the additional quantity of allowances to be allocated for free under those sector-specific fuel benchmarks, and that ensures that no reduction pursuant to paragraph 5 applies.

Concerning the update of the benchmark values for heat and fuel benchmarks ***pursuant the first subparagraph, point (a),*** 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***, point (a),*** and ensures that no reduction pursuant to Article 10a(5) applies.

Concerning the update of the benchmark values for fuel benchmarks pursuant to point (b), for the year 2028, the maximum annual reduction rate to be applied shall be reduced to a percentage rate value that makes use of 60 % of the adjustment pursuant to the first subparagraph, point (b) and ensures that no reduction pursuant to Article 10a(5) applies.

2b. ***Paragraphs 2a and 2ba*** 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).

2ba. For the purpose of updating the benchmark values pursuant to paragraph 2a, point (b), of this Article, where the Commission identifies that the emission performance of the manufacturing processes within the 10 % most efficient installations in a sector is higher than the average emission intensity of the 10% most efficient installations for the calculation of the Union-wide ex-ante fuel benchmark, it shall establish sector-specific benchmarks under the ex-ante fuel benchmark for that sector in accordance with this paragraph.

The delegated acts adopted pursuant to paragraph 1, first subparagraph, shall, for the purposes of this paragraph, establish the definitions of the sector-specific fuel benchmarks, their corresponding system boundaries and the starting point values for determining the annual reduction rates applicable to those benchmarks.
In line with established practices, the Commission shall carry out open, timely and transparent consultations in sufficient time to allow evidence submitted by stakeholders to be effectively taken into account.

2c. By way of derogation from Article 10a(1) third and fifth subparagraph, the 20% reduction of free allocation pursuant to those subparagraphs shall not take into account the update of the benchmark values for heat and fuel benchmarks according to paragraph 2a.'

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	*For the Council*
The President	*The President*