From the undersigned district heating associations and industry representatives

Include waste-to-energy in the EU ETS – with a level playing field, not exemptions

14 October 2026

To the Members of the European Parliament, in particular the rapporteur and the shadow rapporteurs on the revision of Directive 2003/87/EC (2026/0212(COD)); the representatives of the Member States in the Council; the European Commission.

In brief

We support EU-wide inclusion of waste incineration in the EU ETS from 2031 at the latest, with proportionate safeguards for district heating end-users. We ask for five things: 1) full obligations for all installations from 2031 without phase-in; 2) no national opt-out, and, only as a fallback, targeted, time-limited transition where diversion to landfill is demonstrated; 3) a monitoring and legislative pathway for landfill methane; 4) equal access to transition finance for early movers; and 5) protection of heat consumers that respects national heat regulation.

The undersigned district heating associations, waste-incineration-industry representatives and others support the EU-wide inclusion of waste incineration in the EU ETS and call on the co-legislators to ensure a fair framework.

We speak from experience, not from forecasts

In Denmark and Sweden, waste-to-energy installations above 20 MW have been subject to full EU ETS obligations since 2013. In Germany, the Netherlands and Norway, waste incineration already carries a national carbon price, subject to national exemptions and allowances. Danish and Swedish waste-to-energy operators have operated under a carbon price for more than a decade and continue to develop and invest in district heating. In Norway, Hafslund Celsio plans to capture 350,000 tonnes of CO2 per year at Klemetsrud from 2029 for permanent geological storage, in Sweden Öresundskraft has made an investment decision to capture 200,000 tonnes of CO_2 annually from 2029 and in Stockholm a CCS installation with a capacity of 800,000 tonnes of CO2 annually is under construction. In Denmark, Ørsted is constructing two full-scale carbon capture plants able to store 430,000 tonnes of CO_2 per year and several Danish waste-to-energy plants have widely participated in previous national CCS programmes. Carbon pricing of residual waste works where it is designed with heat in mind.

We are aware of actors raising concerns on costs for waste incineration inclusion with an estimated annual cost of nearly EUR 4 billion to taxpayers and industrial and district heating users at a CO_2 price of EUR 100 per tonne. That headline figure does not establish the net impact on heat bills, which depends on free allocation for recovered heat, upstream responsibility and national heat regulation. Nor does it substantiate the categorical claim that inclusion delivers no environmental benefits. Legitimate concerns about heat costs call for effective safeguards, not blanket withdrawal.

Exclusion, moreover, does not remove existing carbon prices. It preserves different national rules: today the same tonne of fossil CO2 from residual waste is subject to EU ETS carbon pricing in Denmark and Sweden and national carbon pricing in Germany, the Netherlands and Norway, while many installations elsewhere face no comparable carbon price. That is not consumer protection. It preserves unequal treatment and a distorted waste market, with incentives for residual waste and refuse-derived fuel to move across borders towards the cheapest carbon regime. The call for complete withdrawal would entrench that unequal treatment and weaken the prospect of a common carbon price with effective safeguards for heat users.

Five requests

1. **Include waste-to-energy from 2031 at the latest, and remove the phase-in for all installations.** The Commission rightly excludes installations already covered from the staged surrender obligation. That exclusion is already in the operative text of Article 12a, and reclassification under Annex I must not confer a new phase-in or interrupt monitoring, surrender history or eligibility for free allocation. Early action should be recognised, not penalised, when access to the Innovation Fund and the Industrial Decarbonisation Bank is designed (see Annex, amendments 1 and 5).
2. **No national opt-out.** Article 12b would let Member States exempt installations until 2035 where two of three conditions are met; a national carbon tax is optional, and the carbon-price equivalence threshold is reduced to the phase-in percentage. We oppose national opt-outs. If any transitional arrangement is retained for Member States with high landfill rates, it must be targeted and evidence-based, authorised by the Commission on a reasoned request, accompanied by a plan for waste prevention, sorting and landfill reduction, limited by a fixed end date, applied with full monitoring, and never cumulated with Article 12b or applied to installations already covered. An automatic deferral based on a landfill threshold alone would not meet these conditions (see Annex, amendments 2 and 3).
3. **Price what the alternative emits.** Landfilling is the alternative to incineration, and landfill methane is the emission the ETS must not encourage. Monitoring, reporting and verification for landfills should apply no later than 1 January 2031, and the Commission should present a legislative proposal for surrender obligations by 31 December 2030. This is the safeguard against diversion; an exemption for incineration is not (see Annex, amendment 4).
4. **Give early movers equal access to transition finance.** Decarbonisation of waste-to-energy means carbon capture, CO_2 transport and storage, heat recovery and network connections. Auction revenues under Article 10(3), the Innovation Fund and the Industrial Decarbonisation Bank must be open on equal terms to installations covered before 2031 and to those entering in 2031, including infrastructure outside the installation boundary. Earlier inclusion must never be a ground for less favourable treatment (see Annex, amendment 5).
5. **Protect heat consumers – and respect national heat regulation.** The net direct cost of surrendering allowances for fossil waste emissions should reach the waste-management chain under the polluter-pays principle, without double recovery and without undermining the financing of heat recovery and carbon capture. The rules should leave Member States room to apply it through their existing heat-price regulation and to deal with existing contracts in an orderly way. Extended producer responsibility should carry the signal to those who decide the fossil content of products.

Why it matters now

The revision will set the carbon treatment of residual waste for the next two decades. A design that leaves many Member States outside the EU ETS until 2035 or later, while the installations that have paid since 2013 continue to pay, protects no one. It rewards delay, moves waste towards landfill and weakens the investment case for carbon capture where it is most advanced. We ask the European Parliament to carry the amendments annexed to this letter and the Council to hold to EU-wide inclusion with a fixed timetable.

We remain at the disposal of the rapporteur, the shadow rapporteurs and the Council working party for any technical exchange.

Signatories

Associations







Companies





































Annex – Five amendment proposals to COM(2026) 616

Commission text: COM(2026) 616 final, 17 July 2026, Council documents ST 12073/26 INIT and ST 12073/26 ADD 1. The left column reproduces the relevant provisions; line breaks and PDF spacing are normalised and source footnote markers are omitted. Main proposals and conditional alternatives are distinguished below. Parameters in square brackets in the conditional fallback remain for agreement.

Additions and replacement wording are shown in bold in the right column. Texts marked as fallback are conditional alternatives to the corresponding main proposals. Bracketed fallback parameters remain for agreement by the participating organisations.

1. Full obligations from 2031

1a. Article 1, point 23 – Article 12a of Directive 2003/87/EC

Commission proposal	Suggested amendment
Article 12a Phase-in of requirements for waste incineration and waste co-incineration	Article 12a **Requirements** for waste incineration and waste co-incineration
Waste incineration and waste co-incineration installations that become subject to the system from 2031 shall be liable to surrender allowances according to the following schedule: (a) 25% of verified emissions reported for 2031 that would be subject to surrender requirements in accordance with Article 12; (b) 50% of verified emissions reported for 2032 that would be subject to surrender requirements in accordance with Article 12; (c) 75 % of verified emissions reported for 2033 that would be subject to surrender requirements in accordance with Article 12; (d) 100% of verified emissions reported for 2034 and each year thereafter in accordance with Article 12. By way of derogation from the first paragraph of this Article, Member States may exempt waste incineration and waste co-incineration installations located in outermost regions within the meaning of Article 349 TFEU from the obligation to surrender allowances until 31 December 2035.	Waste incineration and waste co-incineration installations that become subject to the system from 2031 shall be liable to surrender allowances **for 100**% of verified emissions reported for 2031 **and each year thereafter** that would be subject to surrender requirements in accordance with Article 12**. This shall** be **without prejudice** to surrender **obligations applicable before that date. Reclassification of an installation under Annex I shall not confer a staged surrender obligation and shall not, in itself, interrupt monitoring, reporting or surrender obligations or adversely affect eligibility for free allocation.**

1b. Recital 72

Commission proposal	Suggested amendment
(72) A new activity for waste incineration and co-incineration should be established in Annex I. The installations covered by the scope of this activity should be defined in line with the definition of waste incineration plants and waste co-incineration plants in Directive 2010/75/EU of the European Parliament and of the Council, for non-hazardous waste. This new activity includes emissions from co-incineration, which were already covered by Directive 2003/87/EC as part of the activity ‘Combustion of fuels’, so that the incineration and co-incineration of waste can be part of a single activity. In addition, units for the incineration of municipal waste should be included in the greenhouse gas emission permits of an EU ETS activity. To this end, the current exemption of such units should be deleted in point 5 of Annex I to	(72) A new activity for waste incineration and co-incineration should be established in Annex I. The installations covered by the scope of this activity should be defined in line with the definition of waste incineration plants and waste co-incineration plants in Directive 2010/75/EU of the European Parliament and of the Council, for non-hazardous waste. This new activity includes emissions from co-incineration, which were already covered by Directive 2003/87/EC as part of the activity ‘Combustion of fuels’, so that the incineration and co-incineration of waste can be part of a single activity. In addition, units for the incineration of municipal waste should be included in the greenhouse gas emission permits of an EU ETS activity. To this end, the current exemption of such units should be deleted in point 5 of Annex I to

Commission proposal	Suggested amendment
Directive 2003/87/EC. The recovery of waste through chemical recycling activities, including thermal treatment processes such as pyrolysis or gasification, is not covered by the extension of the scope of the EU ETS to the extent that the substances resulting from the treatment are not subsequently incinerated. To ensure regulatory consistency, accommodate the specific characteristics of waste as a feedstock, and promote environmental integrity through robust and comprehensive coverage avoiding threshold effects from diversion to smaller, less efficient installations, the capacity threshold for this activity should be aligned with Annex I, point 5.2.(a) of Directive 2010/75/EU as installations with a capacity exceeding 3 tonnes per hour. Implementing Regulation (EU) 2018/2066 should be reviewed and updated accordingly regarding the monitoring and reporting rules for emissions from municipal waste incineration installations.	Directive 2003/87/EC. The recovery of waste through chemical recycling activities, including thermal treatment processes such as pyrolysis or gasification, is not covered by the extension of the scope of the EU ETS to the extent that the substances resulting from the treatment are not subsequently incinerated. To ensure regulatory consistency, accommodate the specific characteristics of waste as a feedstock, and promote environmental integrity through robust and comprehensive coverage avoiding threshold effects from diversion to smaller, less efficient installations, the capacity threshold for this activity should be aligned with Annex I, point 5.2.(a) of Directive 2010/75/EU as installations with a capacity exceeding 3 tonnes per hour. Implementing Regulation (EU) 2018/2066 should be reviewed and updated accordingly regarding the monitoring and reporting rules for emissions from municipal waste incineration installations. **For the avoidance of doubt, emissions from co-incineration already covered by Directive 2003/87/EC under the activity 'Combustion of fuels' should, from 1 January 2031, be considered emissions from the waste incineration and waste co-incineration activity referred to in Annex I, where the conditions for that activity set out in Annex I are met.**

1c. Recital 74

Commission proposal	Suggested amendment
(74) To ensure a smooth transition of the sector in the EU ETS, the surrendering of allowances by municipal waste incineration installations that become subject to the system from 2031 onwards should be gradually introduced with respect to verified emissions reported for the period 2031 to 2034. This staged integration should not apply to installations currently already included in the EU ETS. Several reasons support a staged integration of the compliance obligation rather than immediate full inclusion. The start from 2031 allows for technical and administrative preparation, in particular for the development of monitoring and reporting rules that are better tailored to municipal waste incineration, including the distinction of biomass and fossil emissions. The start from 2031 combined with the phase-in allows planning and investment predictability for operators and local authorities, including for the adjustment of contractual arrangements between local authorities and incinerators. It also enables prior investment support, including through ETS revenue use, in abatement measures for installations and local authorities. Phasing-in surrender obligations for municipal waste incineration also contributes to the	(74) To ensure a **level playing field** in the EU ETS, the surrendering of allowances by municipal waste incineration installations that become subject to the system from 2031 onwards should **apply in full** with respect to verified emissions reported for 2031 **and each year thereafter**. The start from 2031 allows for technical and administrative preparation, in particular for the development of monitoring and reporting rules that are better tailored to municipal waste incineration, including the distinction of biomass and fossil emissions. The start from 2031 allows planning and investment predictability for operators and local authorities, including for the adjustment of contractual arrangements between local authorities and incinerators. It also enables prior investment support, including through ETS revenue use, in abatement measures for installations and local authorities. **The inclusion of** municipal waste incineration also contributes to the convergence towards the landfilling target established in Article 5(5) of Directive 1999/31/EC while allowing to strengthen complementary circular economy policies at EU, national and local level to support waste prevention, reduction, collection, sorting and recycling and address landfilling,

Commission proposal	Suggested amendment
convergence towards the landfilling target established in Article 5(5) of Directive 1999/31/EC while allowing to strengthen complementary circular economy policies at EU, national and local level to support waste prevention, reduction, collection, sorting and recycling and address landfilling, avoiding any unintended consequences in terms of waste diversion contrary to the waste hierarchy. To protect the environmental integrity of the system, the number of allowances added to the cap in respect of the sector should be proportionate to the gradually increasing surrender obligation for those years. The figures relating to the inclusion of municipal waste incineration should be derived from the data monitored and reported for the sector under Directive 2003/87/EC for 2024 in the Union and the States of the EEA and the EFTA), adjusted, from 2024 until 2031, by projections for estimated reporting data and capacity developments. The number of allowances added to the total Union-wide quantity of allowances in respect of the sector should be commensurate to the phase-in trajectory from 2031 to 2034, equivalent to 25% of that total number in 2031, 50% of that total number adjusted by the linear reduction factor in 2032, 75% of that total number adjusted by the linear reduction factor in 2033, and 100% of that total number adjusted by the linear reduction factor as of 2034. As from 2035, municipal waste incineration installations should surrender the number of allowances corresponding to all of their verified emissions reported in the preceding year.	avoiding any unintended consequences in terms of waste diversion contrary to the waste hierarchy. To protect the environmental integrity of the system, the number of allowances added to the cap in respect of the sector should **correspond** to **full** surrender **obligations from 2031**. The figures relating to the inclusion of municipal waste incineration should be derived from the data monitored and reported for the sector under Directive 2003/87/EC for 2024 in the Union and the States of the EEA and EFTA, adjusted, from 2024 until 2031, by projections for estimated reporting data and capacity developments. The **quantity** added **from 2031 should be subject** to the **linear reduction factor and should not count emissions already included in the** Union-wide quantity of allowances. As from **2032**, municipal waste incineration installations should surrender the number of allowances corresponding to all of their verified emissions reported in the preceding year. **Installations already covered by the Union greenhouse gas emission allowance trading system should not be placed at a disadvantage in relation to decarbonisation support applicable to the waste incineration and waste co-incineration activity. When establishing the conditions governing support under the Innovation Fund and the Industrial Decarbonisation Bank, due account should be taken, where appropriate, of the earlier regulatory exposure, accumulated compliance costs and early decarbonisation investments of such installations.**

1d. Recital 76

Commission proposal	Suggested amendment
(76) Taking into account the special characteristics and permanent constraints of the outermost regions of the Union as recognised in Article 349 of the Treaty on the Functioning of the European Union (TFEU), and given their constraints in deploying a comprehensive waste-management ecosystem at scale and distance from recycling markets, an option is provided for Member States to temporarily exempt installations located in the outermost regions from the surrender obligation for waste incineration and co-incineration pursuant to Directive 2003/87/EC.	**Deleted**.

1e. Article 1, point 12(b) – Article 9 of Directive 2003/87/EC – waste-incineration increase and associated publication provision

Commission proposal	Suggested amendment
The Union-wide quantity of allowances shall be increased in respect of municipal waste incineration	**In 2031, the** Union-wide quantity of allowances shall be increased in respect of waste incineration

Commission proposal	Suggested amendment
by the following amounts, in consideration of the phase-in requirements established in Article 12a: – 10.2 million allowances in 2031; – 19.5 million allowances in 2032; – 28.1 million allowances in 2033; and – 36 million allowances in 2034, subject thereafter to the application of the linear reduction factor. The linear factor shall be 3.7% from 2031 to 2035 and 1.7% from 2036. The Commission shall publish the Union-wide quantity of allowances by September 2028.	**and waste co-incineration installations that become subject to surrender obligations from that year. The Commission shall determine** the **increase on the basis** of the **emissions monitored, reported and verified under this Directive for 2024** in **the Union and the States of the EEA and EFTA, adjusted by projections for reporting data and capacity developments up to 2031, taking account of the full surrender obligation** established in Article 12a **and excluding emissions already included in the Union-wide quantity of allowances**. **The increase shall be** subject to the application of the linear reduction factor. The linear factor shall be 3.7% from 2031 to 2035 and 1.7% from 2036. The Commission shall publish the **increase and the resulting** Union-wide quantity of allowances by September 2028.

Justification. The Commission excludes already covered installations from the phase-in in Article 12a. The amendment adds full obligations for all installations from 2031 and removes any doubt that reclassification resets obligations or allocation. The Article 9 amendment is a necessary consequential adjustment: it replaces phase-in quantities with a determination corresponding to full surrender obligations, preserves the Commission's stated data methodology and linear reduction factors, and prevents double counting of already covered emissions.

2. National opt-out

The main proposal is deletion of Article 12b and recital 75. Amendments 2c–2e are alternatives only if an opt-out is retained; they are not cumulative with amendments 2a–2b. Article 12b, paragraphs 2 and 4–6, remain unchanged under that alternative.

2a. Article 1, point 23 – Article 12b of Directive 2003/87/EC

Commission proposal	Suggested amendment
Article 12b Opt-out for waste incineration and co-incineration 1. By way of derogation from Articles 12 and 12a, the competent authority of a Member State may exempt installations under the activity 'Waste incineration and waste co-incineration' referred to in Annex I, from the obligation to surrender allowances for the emissions of a given reference year up to 2035, provided that the Member State demonstrates that at least two out of the following three conditions are met: (a) The Member State concerned has a national carbon tax in force for the emissions of the years 2031 to 2035, covering the activity referred to in in Annex I; the national law setting the tax rates applicable for the years 2031 to 2035 has, by the date of notification in accordance with 31July 2029, entered into force; for the reference year, the national carbon tax of the Member State concerned effectively paid by that regulated entity is higher than the average auction clearing price of the emissions trading system established under this Chapter, adjusted for the gradual phase-in for the sector in accordance with Article 12a; the Member State concerned shall notify the Commission of any subsequent change to the national carbon tax; (b)	**Deleted**.

Commission proposal	Suggested amendment
The Member State concerned has the policies in place to achieve the targets under Article 11(2)(d) and (e) of Directive 2008/98/EC and is on track to meet those targets; (c) The Member State concerned has the policies in place to achieve the target under Article 5(5) of Directive 1999/31/EC and is on track to meet that target. 2. The Member State concerned shall cancel an amount of allowances from the total quantity of allowances to be auctioned by it, referred to in Article 10, for each reference year, which is equal to the verified emissions of the relevant installations for the reference year. The allowances shall be cancelled in accordance with the delegated acts adopted pursuant to Article 10(4). 3. By 31 July 2029, the Member State concerned shall notify the Commission of its request for the opt-out, demonstrating compliance with at least two out of the three conditions in paragraph 1, and indicating the corresponding amount of allowances to be cancelled in accordance with paragraph 2. 4. The derogation shall enter into force if the Commission does not raise an objection to the application of the derogation on the ground that the measure notified is not in conformity with the conditions set out in this paragraph, within three months of a notification under this paragraph. 5. The amount of allowances to be cancelled under paragraph 2 shall not affect, where it has been established pursuant to Article 311, third paragraph, TFEU, the own resources of the Union budget pursuant to Council Decision (EU, Euratom) 2020/2053 from the revenues generated from auctioning of allowances in accordance with Article 10 of this Directive. 6. The installations concerned shall continue to fully comply with the obligations under Article 14 on monitoring and reporting of its emissions and Article 15 on verification and accreditation.	

2b. Recital 75

Commission proposal	Suggested amendment
(75) To further ensure a smooth transition, where a Member State has equivalent measures in place that achieve the objectives for including municipal waste incineration in Directive 2003/87/EC, a temporary opt-out possibility should be introduced until the end of 2035. To ensure compatibility with decarbonisation, material and carbon circularity and a level playing field, the option of applying that derogation should be available only where a Member State can demonstrate it meets at least two out of the following three conditions: having an equivalent national carbon tax in place with a tax rate higher than the average auctioning price for the relevant year; it is on track to achieve the EU municipal waste recycling targets under Article	**Deleted**.

Commission proposal	Suggested amendment
11(2)(d) and (e) of Directive 2008/98/EC; and it is on track to achieve the municipal waste landfill target under Article 5(5) of Directive 1999/31/EC. To ensure stability and transparency of the system, the request, including the relevant information to demonstrate compliance with at least two out of the three conditions, should be notified to the Commission by 31 July 2029. The temporary nature of this derogation is important to ensure compatibility with moving the accounting of emissions where carbon dioxide is captured and used in intermediate or final products (CCU) to the point of their release from products into the atmosphere while preventing a high risk of underaccounting.	

2c. Conditional alternative – Article 12b(1)

Commission proposal	Suggested amendment
1. By way of derogation from Articles 12 and 12a, the competent authority of a Member State may exempt installations under the activity 'Waste incineration and waste co-incineration' referred to in Annex I, from the obligation to surrender allowances for the emissions of a given reference year up to 2035, provided that the Member State demonstrates that at least two out of the following three conditions are met: (a) The Member State concerned has a national carbon tax in force for the emissions of the years 2031 to 2035, covering the activity referred to in in Annex I; the national law setting the tax rates applicable for the years 2031 to 2035 has, by the date of notification in accordance with 31July 2029, entered into force; for the reference year, the national carbon tax of the Member State concerned effectively paid by that regulated entity is higher than the average auction clearing price of the emissions trading system established under this Chapter, adjusted for the gradual phase-in for the sector in accordance with Article 12a; the Member State concerned shall notify the Commission of any subsequent change to the national carbon tax; (b) The Member State concerned has the policies in place to achieve the targets under Article 11(2)(d) and (e) of Directive 2008/98/EC and is on track to meet those targets; (c) The Member State concerned has the policies in place to achieve the target under Article 5(5) of Directive 1999/31/EC and is on track to meet that target.	1. By way of derogation from Articles 12 and 12a, the competent authority of a Member State may exempt installations under the activity 'Waste incineration and waste co-incineration' referred to in Annex I **that were not subject to surrender obligations before 1 January 2031**, from the obligation to surrender allowances for the emissions of a given reference year up to 2035, provided that the Member State demonstrates that **the condition in point (a) and** at least **one** of the conditions **in points (b) and (c)** are met: (a) The Member State concerned has a national carbon tax in force for the emissions of the years 2031 to 2035, covering the activity referred to in Annex I; the national law setting the tax rates applicable for the years 2031 to 2035 has, by the date of notification in accordance with **paragraph 3**, entered into force; for the reference year, the **verifiable** national carbon tax effectively paid by **the installation per tonne of fossil emissions** is **at least equal to** the average auction clearing price of the emissions trading system established under this Chapter, **without adjustment** for **any** gradual phase-in in accordance with Article 12a; the Member State concerned shall notify the Commission of any subsequent change to the national carbon tax; (b) The Member State concerned has the policies in place to achieve the targets under Article 11(2)(d) and (e) of Directive 2008/98/EC and is on track to meet those targets; (c) The Member State concerned has the policies in place to achieve the target under Article 5(5) of Directive 1999/31/EC and is on track to meet that target.

Commission proposal	Suggested amendment
	Compliance with these conditions shall be verified annually. The exemption shall be withdrawn where the conditions are no longer met.

2d. Conditional alternative – Article 12b(3)

Commission proposal	Suggested amendment
3. By 31 July 2029, the Member State concerned shall notify the Commission of its request for the opt-out, demonstrating compliance with at least two out of the three conditions in paragraph 1, and indicating the corresponding amount of allowances to be cancelled in accordance with paragraph 2.	3. By 31 July 2029, the Member State concerned shall notify the Commission of its request for the opt-out, demonstrating compliance with **the condition in paragraph 1, point (a), and** at least **one** of the conditions in paragraph 1**, points (b) and (c)**, and indicating the corresponding amount of allowances to be cancelled in accordance with paragraph 2.

2e. Conditional alternative – Recital 75

Commission proposal	Suggested amendment
(75) To further ensure a smooth transition, where a Member State has equivalent measures in place that achieve the objectives for including municipal waste incineration in Directive 2003/87/EC, a temporary opt-out possibility should be introduced until the end of 2035. To ensure compatibility with decarbonisation, material and carbon circularity and a level playing field, the option of applying that derogation should be available only where a Member State can demonstrate it meets at least two out of the following three conditions: having an equivalent national carbon tax in place with a tax rate higher than the average auctioning price for the relevant year; it is on track to achieve the EU municipal waste recycling targets under Article 11(2)(d) and (e) of Directive 2008/98/EC; and it is on track to achieve the municipal waste landfill target under Article 5(5) of Directive 1999/31/EC. To ensure stability and transparency of the system, the request, including the relevant information to demonstrate compliance with at least two out of the three conditions, should be notified to the Commission by 31 July 2029. The temporary nature of this derogation is important to ensure compatibility with moving the accounting of emissions where carbon dioxide is captured and used in intermediate or final products (CCU) to the point of their release from products into the atmosphere while preventing a high risk of underaccounting.	(75) To further ensure a smooth transition, where a Member State has equivalent measures in place that achieve the objectives for including municipal waste incineration in Directive 2003/87/EC, a temporary opt-out possibility should be introduced until the end of 2035. To ensure compatibility with decarbonisation, material and carbon circularity and a level playing field, the option of applying that derogation should be available only where a Member State can demonstrate it **has** an equivalent national carbon tax **effectively paid by** the **installation per tonne of fossil emissions at least equal to the full** average auctioning price for the relevant year**, without reduction for any phase-in, and** is on track **either** to achieve the EU municipal waste recycling targets under Article 11(2)(d) and (e) of Directive 2008/98/EC **or** to achieve the municipal waste landfill target under Article 5(5) of Directive 1999/31/EC. To ensure stability and transparency of the system, the request, including the relevant information to demonstrate compliance with **those** conditions, should be notified to the Commission by 31 July 2029. The temporary nature of this derogation is important to ensure compatibility with moving the accounting of emissions where carbon dioxide is captured and used in intermediate or final products (CCU) to the point of their release from products into the atmosphere while preventing a high risk of underaccounting. **The derogation should not apply to installations already subject to surrender obligations before 1 January 2031. Compliance should be verified annually and the exemption withdrawn where the conditions are no longer met.**

Justification. The proposed carbon-tax condition is optional and adjusted to the phase-in, so an exempted installation may face a quarter of the carbon price in 2031. The main proposal removes the national opt-out. If an opt-out is retained, equivalence must mean the full carbon price, and that condition must be mandatory alongside at least one circularity condition. Earlier covered installations must not acquire a new opt-out through reclassification.

3. Fallback if a phase-in is retained: transitional arrangements for Member States with high landfill rates

This is an alternative for discussion only if the general phase-in is retained. The landfill threshold, reference year and final emissions year in brackets require political agreement before this option can be submitted.

3a. Article 1, point 23 – Article 12a of Directive 2003/87/EC – new subparagraph

Commission proposal	Suggested amendment
No corresponding provision.	**On a reasoned request, the Commission may authorise a limited adjustment of the phase-in for a Member State where more than [X] % of municipal waste was landfilled in [reference year], based on harmonised Union data**. **An adjustment shall require evidence of a material risk of diversion to landfill and a time-bound plan for waste prevention, sorting, recycling and landfill reduction. The installations concerned shall be liable to surrender allowances for 100% of verified emissions reported for [2036] and each year thereafter that would be subject to surrender requirements in accordance with Article 12. Monitoring, reporting and verification shall apply throughout. Such adjustments shall not apply to installations already subject to surrender obligations, shall not be cumulated with an exemption under Article 12b, and shall not confer a new phase-in through reclassification.**

Justification. An automatic deferral to 2035 for Member States above a landfill threshold, cumulated with Article 12b, could postpone full obligations beyond 2035 and reward the slowest transitions. A targeted, authorised and time-limited adjustment addresses demonstrated diversion risk without an open-ended exemption.

4. Landfills: monitoring and a legislative pathway

4a. Annex I to the proposal, point 1(c)(viii) – Annex I to Directive 2003/87/EC – landfill activity and greenhouse-gas column

Commission proposal	Suggested amendment
Activity column: The Commission shall report by 31 July 2029 whether one or both of the following conditions have been met: (2) the establishment of landfill register(s) pursuant to Article [X] of Regulation (EU) […./..] [Circular Economy Act to ensure environmental integrity and avoid circumvention; and (3) Best Available Techniques for Landfills conclusions have been published in the Official Journal of the European Union pursuant to Article 13 of Directive 2010/75/EU. Where both of the conditions referred to are met, Articles 14 and 15 shall apply to landfills where there is the disposal or recovery of non-hazardous waste from 1 January 2031. Where one or both of the conditions referred to are not met,	Activity column: Articles 14 and 15 shall apply to landfills **disposing of** or **recovering** non-hazardous waste **as soon as harmonised monitoring methods and the necessary registers are operational, and no later than** 1 January 2031. **The Commission shall establish those methods in good time, drawing on** the **landfill BAT conclusions**, **where available,** and **covering methane and other relevant greenhouse gases**. Greenhouse-gas column: Carbon dioxide **Methane**

Commission proposal	Suggested amendment
Articles 14 and 15 shall apply to landfills where there is the disposal or recovery of non-hazardous waste from 1 January 2034. Greenhouse-gas column: Carbon dioxide	

4b. Article 1, point 33(b) – Article 30(9) of Directive 2003/87/EC

Commission proposal	Suggested amendment
9. By 31 December 2034, the Commission shall present a report to the European Parliament and to the Council in which it shall assess the appropriateness of including in the EU ETS emissions from landfills. In that regard, the Commission shall take into account any potential evidence of diversion of waste towards disposal by landfilling. The Commission may, where appropriate, accompany that report with a legislative proposal to include landfills in the EU ETS.	9. By 31 December **2030**, the Commission shall present a report to the European Parliament and to the Council **and** a legislative proposal **establishing surrender obligations for landfill emissions, with a fixed implementation timetable and robust monitoring requirements, with a view** to **ensuring comparable carbon treatment no later than** the **full application of surrender obligations to waste incineration. Pending implementation, Member States shall apply effective measures to prevent** ETS**-induced diversion to landfill, consistently with the waste hierarchy**.

4c. Recital 78

Commission proposal	Suggested amendment
(78) The extension of the carbon price to municipal waste incineration should be accompanied by effective measures to continue reducing landfilling and avoid unintended consequences in terms of waste diversion contrary to the waste hierarchy. This risk is mitigated by the fact that sustainable biomass emissions from incineration are zero-rated, limiting the incentive for organic waste diversion to landfilling -where it is the main source of methane- to avoid having to pay the carbon price. However, a risk of diversion of fossil-based material remains where no effective regulatory or fiscal landfill policies are in place. Therefore, effective and reinforced implementation and enforcement of policies and measures to limit the share of municipal waste landfilled to 10% or less by 2035 as established in Directive 1999/31/EC is essential. Furthermore, monitoring and reporting, as well as verification and accreditation of emissions from landfilling of municipal waste should be developed in the future to monitor the development of methane emissions following the full extension of the EU ETS to emissions from municipal waste incineration. Uncertainty in the quantification of emissions from landfills remains high. Harmonised monitoring and reporting frameworks to collect standardised, robust and verified emissions data should therefore first be established to ensure a high degree of integrity in the system. The development of accurate monitoring and reporting rules is conditional on the	(78) The extension of the carbon price to municipal waste incineration should be accompanied by effective measures to continue reducing landfilling and avoid unintended consequences in terms of waste diversion contrary to the waste hierarchy. This risk is mitigated by the fact that sustainable biomass emissions from incineration are zero-rated, limiting the incentive for organic waste diversion to landfilling -where it is the main source of methane- to avoid having to pay the carbon price. However, a risk of diversion of fossil-based material remains where no effective regulatory or fiscal landfill policies are in place. Therefore, effective and reinforced implementation and enforcement of policies and measures to limit the share of municipal waste landfilled to 10% or less by 2035 as established in Directive 1999/31/EC is essential. Furthermore, monitoring and reporting, as well as verification and accreditation**,** of emissions from landfills **disposing of or recovering non-hazardous waste should apply as soon as harmonised monitoring methods and the necessary registers are operational, and no later than 1 January 2031**. Harmonised monitoring and reporting frameworks **should** collect standardised, robust and verified emissions data**, covering methane** and **other relevant greenhouse gases and drawing** on the **landfill BAT conclusions**, **where available**. The Commission should **establish those methods in good time and**

Commission proposal	Suggested amendment
development, first, of the future Best Available Techniques for Landfills to ensure environmental integrity, regulatory consistency and the use of advanced monitoring tools, including measurement and modelling methods, and second, of a comprehensive landfill register or registers to avoid circumvention and ensure its effectiveness. For this purpose, the Commission should report by 31 July 2029 whether these enabling conditions have been fulfilled for the MRV to be developed by 2031 at the point of the start of the phase-in of municipal waste incineration. In case one of these conditions have not been fulfilled, the extension of the EU ETS to landfills for MRV should be postponed from 2031 to 2034, at the point of full integration of municipal waste incineration, to allow additional time for these conditions to be fulfilled. The Commission should review Directive 2003/87/EC by 31 December 2034 in light of these developments and any unintended consequences.	**present a report and a legislative proposal** by 31 December **2030 establishing surrender obligations for landfill emissions, with a fixed implementation timetable and robust monitoring requirements, with a view to ensuring comparable carbon treatment no later than the full application** of **surrender obligations to waste incineration**. **Pending implementation, Member States should apply effective measures to prevent ETS-induced diversion to landfill, consistently with the waste hierarchy.**

Justification. Monitoring alone creates no price. A legislative pathway with a date is the safeguard against diversion that does not consist of lowering the carbon price on incineration. Landfill monitoring should cover methane and should not await BAT conclusions if harmonised methods can be operational sooner.

5. Equal access to transition finance

5a. Article 1, point 17 – Article 10cb(9) of Directive 2003/87/EC

Commission proposal	Suggested amendment
9. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Article with rules on the operation of the Innovation Fund, including the governance, eligibility, forms of support and related conditions, selection procedure, selection criteria, and procedural, organisational, and financial rules to ensure an appropriate implementation of the Innovation Fund in accordance with this Article.	9. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Article with rules on the operation of the Innovation Fund, including the governance, eligibility, forms of support and related conditions, selection procedure, selection criteria, and procedural, organisational, and financial rules to ensure an appropriate implementation of the Innovation Fund in accordance with this Article. **Those delegated acts shall include appropriate safeguards to ensure that waste incineration plants and waste co-incineration plants covered by Annex I are not placed at a disadvantage on the ground that they were already covered by the Union greenhouse gas emission allowance trading system before 1 January 2031. Earlier inclusion in that system, earlier regulatory exposure and early decarbonisation investments shall not, in themselves, constitute grounds for less favourable treatment in relation to eligibility for, or access to, support under the Innovation Fund.**

5b. Article 1, point 17 – Article 10cc(6) of Directive 2003/87/EC

Commission proposal	Suggested amendment
6. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive with rules on the operation of the Industrial Decarbonisation Bank, including procedural, organisational, and financial rules to ensure an appropriate implementation of the Industrial Decarbonisation Bank.	6. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive with rules on the operation of the Industrial Decarbonisation Bank, including procedural, organisational, and financial rules to ensure an appropriate implementation of the Industrial Decarbonisation Bank. **Those delegated acts shall include appropriate safeguards to ensure that waste incineration plants and waste co-incineration plants covered by Annex I are not placed at a disadvantage on the ground that they were already covered by the Union greenhouse gas emission allowance trading system before 1 January 2031. Earlier inclusion in that system, earlier regulatory exposure and early decarbonisation investments shall not, in themselves, constitute grounds for less favourable treatment in relation to eligibility for, or access to, support under the Industrial Decarbonisation Bank.**

5c. Article 1, point 14(c) – Article 10(3), first subparagraph, point (j), of Directive 2003/87/EC

Commission proposal	Suggested amendment
(j) to finance research and development necessary for any of the purposes in points (a) to (h).	(j) to finance research and development necessary for any of the purposes in points (a) to (h) **and (k);**

5d. Article 1, point 14(c) – Article 10(3), first subparagraph – new point (k)

Commission proposal	Suggested amendment
No corresponding provision.	**(k) measures delivering verifiable reductions in the climate impact of waste incineration and associated heat supply, including energy efficiency, flue-gas heat recovery, electrification, heat-network connections and upgrades, thermal storage, carbon capture and the necessary transport and permanent storage infrastructure, consistently with the waste hierarchy**.

Justification. The provisions confer no entitlement and leave objective, technology-neutral award criteria intact. They ensure that earlier compliance is not turned into a disadvantage when transition finance is distributed, and that the full range of decarbonisation investments – including CO_2 transport and storage – is eligible.