

Targeted public consultation - draft guidance on the application of the 'do no significant harm' principle under the 2028-2034 Multiannual Financial Framework (MFF)

Introduction

The Commission proposal for a Performance Regulation sets out that the Commission is to issue a simple and single guidance on the application of the Do No Significant Harm (DNSH) principle to the Multiannual Financial Framework (MFF) 2028-2034.

In this context, this targeted consultation aims to gather feedback from stakeholders on the Commission's envisaged approach to applying the principle, presented in the concept paper (attached to this questionnaire). The following survey follows the structure of the concept paper.

This targeted consultation will be open for 9 weeks, until 16 September 2026. It follows the Call for Evidence published on the "[Have your say](#)" portal in March 2026.

Profile of respondents

Language of my contribution:

English

I am giving my contribution as:

- ☐ National authority
- ☐ Regional authority
- ☐ National agency
- ☐ Implementing partner of EU funds
- ☒ Business organisation / company
- ☐ Industry or trade association
- ☐ Small and medium-sized enterprise (SME)
- ☐ NGO / Civil society organisation
- ☐ Consumer organisation
- ☐ Trade union / workers' organisation
- ☐ Academic or research organisation

- ☐ International organisation
- ☐ EU citizen
- ☐ non-EU citizen
- ☐ Other

Please specify the name of your organisation:

1000 character(s) maximum

EurEau

What is the size of your organisation?

- ☒ Micro (fewer than 10 employees)
- ☐ Small (10-49 employees)
- ☐ Medium-sized (50-249 employees)
- ☐ Large (250 employees or more)

First name

Surname

Email address

Country of origin

BE - Belgium

In which sector(s) are you primarily active?

Maximum 3 selection(s)

- ☐ Agriculture and food
- ☐ Energy and mining
- ☒ Environment and climate
- ☐ Financial Services
- ☐ Health
- ☐ Digital / ICT
- ☐ Transport and mobility
- ☐ Consumer markets / retail
- ☐ Manufacturing / industry
- ☐ Construction / infrastructure

- ☐ Education
- ☐ Media / culture
- ☐ Justice / legal services
- ☐ Public administration
- ☐ Social services
- ☐ Defence / security
- ☐ Consulting services
- ☐ Cross-sectoral
- ☐ Other

Please indicate your level of familiarity with the 'Do No Significant Harm' (DNSH) principle.

- ☐ Very high – direct and regular practical experience
- ☒ High – good knowledge and some practical experience
- ☐ Moderate – general knowledge
- ☐ Limited – only partial familiarity
- ☐ No knowledge

What is the main basis for your replies?

- ☐ Practical experience in applying DNSH rules
- ☐ Experience in enforcement, auditing or supervision of DNSH rules
- ☐ Academic research
- ☒ Representative of an undertaking, industry association, NGO, or other stakeholder organisation
- ☐ Other

General questions on the proposed approach

Overall, do you think that the framework presented in the concept paper strikes a good balance between ensuring an adequate level of environmental protection and remaining proportionate and simple to apply?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please justify your answer, providing examples where possible

2000 character(s) maximum

In addition to specific input provided later in the questionnaire that will explain the answer, there is one general aspect to highlight. It's extremely surprising that there is concept note based on a piece of legislation that has not even been adopted. The concept note is based entirely on the version of Article 5 included in the COM proposal for the Performance Framework Regulation. The European Parliament does not yet have a position (the indicative plenary sitting is scheduled for 14 December 2026). And the Council has only a partial position in which Article 5 differs significantly from the COM proposal. Trilogue has not started yet, but it seems very likely it will bring changes to this article, which means the concept note may not even be valid anymore in few months. Hence, the consultation seems very rushed.

Irrespective of the legislative timetable, the final guidance should support essential water and wastewater investments and assess significant harm against environmental baselines, available alternatives and the life-cycle effects of the funded investment. Taxonomy alignment should operate as a one-way safe harbour; its absence should not imply DNSH non-compliance.

A binding grandfathering clause should benchmark assets, for DNSH purposes, exclusively against the regulatory standards applicable at authorisation, without prejudice to mandatory legal obligations that subsequently apply during operation.

Water and wastewater operators act under planning, tariff and service-quality constraints. Financing gaps for duly authorised essential infrastructure can ultimately increase costs borne by citizens and service users.

General principles applicable to the DNSH approach (section 1 of the concept paper)

Do you have any comments on the concept paper's section on the principles of reduced administrative burden and proportionality (section 1.A)?

- ☒ Yes
☐ No

Do you think that the proposed approach in the concept paper, relying on a single list of DNSH criteria that are included in a guidance and are known upfront, is simpler and reduces administrative burden compared to the ways the DNSH principle is currently applied across the EU budget?

- ☐ 1 – not at all
☒ 2 – to a limited extent
☐ 3 – to some extent
☐ 4 – to a great extent
☐ Do not know

Please explain your answer

1000 character(s) maximum

A single list may be simpler and could potentially reduce administrative burden. However, a one-size fits all approach is not the appropriate one for such a complex topic, taking into account how different activities affect the different environmental objectives in the Taxonomy Regulation.

In addition, setting criteria only for a limited set of activities is too simplistic and will lead to free riders.

Where DNSH compliance has been established at plan, programming or approval level, no separate reassessment should be required at individual-operation or implementation level, provided that the project has not materially changed and the conditions underlying the initial assessment continue to be met. A common evidence hierarchy should enable reuse of permits and assessments across programmes, with strategic assessments performed or validated by competent authorities and beneficiaries providing evidence within their control

Do you think that the proposed approach in the concept paper allows to achieve the set objectives of the relevant programmes or instruments in line with the Union's policy priorities?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please explain your answer

1000 character(s) maximum

Clearly DNSH must allow to achieve the objectives of relevant programmes or instruments in line with the Union's policy priorities. However, it is important to realise that there should be a stronger focus on achieving the objectives of the relevant legislation, programmes or instruments related to the 6 environmental objectives stated in the Taxonomy Regulation, considering the constantly moving Union policy priorities (even within the same mandate/period). Besides avoiding duplication, ensuring policy coherence should be included.

While it is important to avoid duplication with requirements under existing EU legislation, it should be clearly stated that compliance with such requirements is the baseline to achieve the DNSH condition. Where that legislation and permitting rules fully address the relevant environmental risks, compliance and all required permits should be sufficient for DNSH purposes. Any additional assessment should target only material risks not already covered.

Do you think that the proposed approach in the concept paper avoids duplication with existing EU environmental legislation?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please explain your answer

1000 character(s) maximum

Compliance with applicable environmental legislation remains essential. Where EU water and wastewater legislation and permitting rules fully address the relevant environmental risks, compliance with those requirements and possession of all required permits should establish DNSH compliance without a separate assessment. Additional checks should address only material risks not already covered.

Robust national statutory requirements or mandatory green public procurement criteria covering the relevant risks, including Italy's Minimum Environmental Criteria, should provide a fast track and a rebuttable presumption of DNSH compliance. Alternatively, predefined exemptions should cover clearly identified categories of lawfully authorised activities or investments.

Existing permits and assessments should be reused. Strategic assessments should be performed or validated by competent authorities; beneficiaries should provide evidence within their control.

Do you think that the proposed approach in the concept paper to applying the proportionality principle is adequate and operational?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please explain your answer

1000 character(s) maximum

It is positive to apply the proportionality principle, in particular for SMEs, but it is important to make sure this will not lead to free riders who do make significant harm to any of the 6 environmental objectives.

The depth of assessment should reflect investment scale, complexity and environmental risk, irrespective of the size of the operator. Small-scale, low-impact maintenance, digitalisation, smart metering and works ensuring essential service continuity should follow simplified procedures, without evidence requirements unrelated to their scope. Territorial differentiation should extend beyond outermost regions and consider environmental baselines, infrastructure gaps, documented needs and applicable river-basin or sectoral plans.

Do you think that developing a differentiated or specific approach for research activities would be necessary to cater for their specificities?

- ☒ Yes
- ☐ No

What approach should be developed, and which should be its key features?

1000 character(s) maximum

No one-size-fits-all approach will be appropriate. This will very much depend on the activity itself.

A derogation under environmental legislation should not automatically be equated with a finding that no significant harm occurs. The guidance should nevertheless explain how its provisions on feasibility, appropriateness and overriding public interest apply to duly justified investments needed for the continuity and resilience of essential water and wastewater services.

Such cases should be assessed under the applicable EU environmental legislation, including any conditions attached to derogations and required mitigation or compensatory measures.

Justifications should rely on competent-authority decisions, sectoral plans and documented infrastructure needs, assessed at programme or planning level. Strategic assessments falling within the remit of public authorities should not be transferred to individual beneficiaries.

Do you think that a specific approach should be developed for applying the DNSH principle to financial instruments and budgetary guarantees?

- ☐ Yes
☒ No

Do you have any comments on the concept paper's section on the principle of 'where feasible or appropriate' (section 1.B)?

- ☒ Yes
☐ No

Is your comment related to:

- ☒ The proposed definition of crisis
☒ The proposed definition of reasons of overriding public interest
☐ The proposed definition of defence and security, including dual-use activities
☒ The application of the 'where feasible or appropriate' principle
☐ Other

Please provide your comment on the definition of crisis

1000 character(s) maximum

The definition should cover documented emergencies affecting essential water and wastewater services where these could disrupt service continuity or endanger public health, the environment or security of supply. Exemptions should cover emergency repair, restoration and temporary continuity measures. Their use should be supported by objective evidence demonstrating the link between the investment and the crisis, including competent-authority decisions and documented service needs.

Please provide your comment on the definition of reasons of overriding public interest

1000 character(s) maximum

Understanding that a derogation from environmental obligations that comes from invoking ROPI (reasons for overriding public interest) implies a derogation from DNSH is wrong. A derogation from environmental obligations due to ROPI actually recognises there is harm, but it allows to derogate from those obligations. Such derogations usually come with a deadline and accompanied by conditions to be met. For example, the wording of Art. 4.7 of the Water Framework Directive says “Member States will not be in breach of this Directive when: - failure to achieve good groundwater status, good ecological status or [...] - failure to prevent deterioration [...]” This clearly shows there is significant harm happening to water bodies.

Please provide your comment on the application of the 'where feasible or appropriate' principle

1000 character(s) maximum

Are there any other areas or cases for which the application of the DNSH principle should be considered not feasible or appropriate?

1000 character(s) maximum

The guidance should specify how duly justified cases concerning essential water and wastewater services are assessed at programme or planning level, using objective evidence, competent-authority decisions, sectoral plans and documented infrastructure needs. Managing or competent authorities should perform or validate strategic and territorial assessments. Beneficiaries should provide project-level evidence within their control and should not reproduce assessments already performed by public authorities. This allocation of responsibilities should apply consistently across management modes and programmes.

Do you consider that additional criteria for climate change adaptation are necessary (section 1.C of the concept paper)?

- ☒ Yes
☐ No

How may any such additional criteria be best introduced in a proportionate manner and without adding excessive administrative burden?

2000 character(s) maximum

Additional climate-adaptation criteria should be limited to material risks not already addressed by applicable EU or national law and should be proportionate to project size and exposure. They should not create a general additional assessment requirement.

For critical water and wastewater infrastructure, the guidance should build on existing climate-risk, resilience, permitting and critical-entity requirements. Plans and assessments already prepared under applicable legislation should be accepted and reused. Where a climate-resilience analysis is already legally required, no further standalone DNSH assessment should be required.

The guidance should distinguish comprehensive climate vulnerability and risk assessment from simplified climate-hazard screening. Criteria should support investments that improve the resilience of existing assets, even where those assets do not yet meet the desired performance level.

Do you consider the elements outlined in section 1.C of the concept paper (i.e. exposure and size) adequate for guiding the application of such additional criteria?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please explain your answer

1000 character(s) maximum

Impacts of climate change are very local. Hence, one-size fits all will not work. Currently, the DNSH criteria hardly refer to water efficiency, which in view of climate change becomes more relevant. It would be important to align the DNSH criteria in relation to water and climate change to the Water Resilience Strategy (and, in particular, to the need to manage water demand) and to the upcoming integrated framework for climate resilience.

The assessment should also reflect expected lifetime, structural complexity, physical exposure and material risks. Where programme-specific rules use a EUR 10 million threshold, it should not trigger a full assessment mechanically: equipment-intensive projects may exceed it while involving limited installation works and low inherent vulnerability. Existing analyses should be reused and requirements calibrated to actual risks.

DNSH areas and criteria (section 2 of the concept paper)

Do you have any comments on point 1) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ No

Do you have any comments on point 2) and/or its related exemptions in section 2.A of the concept paper?

- ☒ Yes
- ☐ No

Are the scope and formulation of point 2) and its exemptions clear?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Which element(s) need(s) to be further clarified? Please justify your answer, providing examples where possible, and drafting suggestions if relevant.

2000 character(s) maximum

For water and wastewater facilities, the restriction in exemption (b) on connection to electricity, heat or cold grids should clarify that on-site emergency assets may be connected to the facility's internal systems without being treated as generation for sale to the grid.

Suggested clarification: 'Connection to the facility's internal electrical or heat systems solely to ensure essential operational continuity shall not in itself exclude an on-site back-up asset from this exemption.'

Do you expect any challenges in the implementation and verification of point 2) and its exemptions?

- ☐ 1 – not at all
- ☐ 2 – to a limited extent
- ☒ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please justify your answer, providing examples where possible, and drafting suggestions if relevant.

2000 character(s) maximum

A literal interpretation of the grid-connection restriction could exclude emergency assets needed to supply a facility's internal electrical or heat systems during an outage. Verification should distinguish these connections from generation for sale to the grid and focus on operational necessity and limited use. Existing technical documentation, permits and operating records should be reused where available. Requirements should allow safe emergency operation and reflect the need to prevent interruptions to essential water and wastewater services.

Do you have any comments on point 3) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ No

Do you have any comments on point 4) and/or its related exemptions in section 2.A of the concept paper?

- ☒ Yes
- ☐ No

Are the scope and formulation of point 4) and its exemptions clear?

- ☐ 1 – not at all
- ☐ 2 – to a limited extent
- ☒ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Which element(s) need(s) to be further clarified? Please justify your answer, providing examples where possible, and drafting suggestions if relevant.

2000 character(s) maximum

The carve-out should explicitly cover special-purpose vehicles indispensable for the continuity of water and wastewater services, including sewer-cleaning, emergency-repair and sludge-handling vehicles, where they fall within the relevant vehicle categories.

Do you expect any challenges in the implementation and verification of point 4) and its exemptions?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please justify your answer, providing examples where possible, and drafting suggestions if relevant.

2000 character(s) maximum

The main challenge is ensuring consistent identification of eligible special-purpose vehicles across programmes. Explicit examples covering sewer-cleaning, emergency-repair and sludge-handling vehicles would reduce divergent interpretations. Verification should rely on existing documentation identifying the vehicle category, technical characteristics and operational function. Evidence requirements should be proportionate and confined to information within the beneficiary's control.

Do you have any comments on point 5) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ No

Do you have any comments on point 6) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ No

Do you have any comments on point 7) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ No

Do you have any comments on point 8) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ No

Do you have any comments on point 9) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ No

Do you have any comments on point 10) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes

☒ No

Do you have any comments on point 11) and/or its related exemptions in section 2.A of the concept paper?

☐ Yes

☒ No

Do you have any comments on point 12) and/or its related exemptions in section 2.A of the concept paper?

☐ Yes

☒ No

Do you have any comments on point 13) and/or its related exemptions in section 2.A of the concept paper?

☒ Yes

☐ No

Are the scope and formulation of point 13) and its exemptions clear?

☐ 1 – not at all

☒ 2 – to a limited extent

☐ 3 – to some extent

☐ 4 – to a great extent

☐ Do not know

Which element(s) need(s) to be further clarified? Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

Subparagraph (c) “recycling of materials from incineration ashes” should also apply for sludge incineration ashes (sludge incineration plants should be included among those waste incineration plants that can be carved out). This is of relevance for the fulfilment of the phosphorus recovery from sludge included in the recast Urban Waste Water Treatment Directive, and for achieving the goals set in the RESourceEU Plan (recovery of secondary raw materials). The wastewater sector has an important potential to contribute to a competitive circular economy, for example through the recovery of phosphorus from sludge (and wastewater) but realising this potential requires an enabling legislative framework, including a DNSH guidance.

The guidance should distinguish eligibility of investments in recycling materials from sludge-incineration ashes from eligibility of the incineration plant itself. A specific carve-out should cover sewage sludge mono-incineration where the investment enables phosphorus recovery and complies with applicable EU environmental standards. This should be without prejudice to other environmentally sound sewage-sludge recovery and valorisation routes under applicable EU and national law.

Do you expect any challenges in the implementation and verification of point 13) and its exemptions?

☐ 1 – not at all

☐ 2 – to a limited extent

☒ 3 – to some extent

☐ 4 – to a great extent

☐ Do not know

Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

Verification should distinguish support for investment components from eligibility of the whole plant or additional waste-processing capacity.

For existing plants, the carve-out should cover investments that do not increase waste-processing capacity, including energy efficiency and emissions control; protection against extreme weather; occupational health and safety and improved working conditions, including for workers from ethnic minorities and in non-standard employment; automation, process control, digitisation and artificial intelligence to prevent pollution; reuse of wastewater generated by thermal processes; and measures addressing documented environmental or market emergencies affecting service continuity and environmentally sound management.

Carbon capture for storage or use, recovery of materials from incineration ashes and heat recovery should not face additional DNSH-specific conditions beyond applicable EU environmental law, permits and relevant IED and BAT requirements. Eligibility of these components in both new and existing plants should be retained, with the existing-plant capacity condition stated in the questionnaire. Existing assessments, permits and technical or operating evidence should be reused.

Under current exemption b), investments in carbon capture for storage or use, recovery of materials or heat recovery are possible in both new and existing plants. An investment in an existing plant, however, must not lead to an increase in the plant's waste processing capacity. Should any additional conditions be introduced for investments in carbon capture for storage or use, recovery of materials or heat recovery?

- ☐ Yes, for new plants
- ☐ Yes, for existing plants
- ☐ Yes, for both new and existing plants
- ☒ No

Do you have any comments on point 14) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ No

Do you have any comments on point 15) and/or its related exemptions in section 2.A of the concept paper?

- ☒ Yes
- ☐ No

Are the scope and formulation of point 15) and its exemptions clear?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Which element(s) need(s) to be further clarified? Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

There are several aspects to consider: (i) these barriers should never affect water resources intended for human consumption; (ii) e-flows should be a precondition; (iii) the impact of droughts should be taken into account to avoid impacts downstream of the barriers. We would suggest checking the work being carried by the Commission's CIS Working Group on water scarcity and droughts.

Investments should protect water resources intended for human consumption, maintain ecological flows in accordance with applicable water-protection requirements, and address downstream impacts, including during droughts.

The guidance should also allow duly justified water-supply, water-storage and drought-resilience infrastructure needed for essential services where investments involve new artificial barriers disrupting continuity in mapped free-flowing river stretches. Eligibility should require justification under the applicable river-basin management plan, compliance with the Water Framework Directive, including any applicable conditions for exemptions, and other relevant EU environmental legislation, and completion of the required environmental and permitting assessments with compliance with their conditions.

The assessment should consider viable alternatives, the public-service need and measures to avoid, minimise or compensate impacts on river continuity and aquatic ecosystems. Relevant assessments should be performed or validated by competent authorities. Work by the Commission's CIS Working Group on water scarcity and droughts should inform this assessment.

Do you expect any challenges in the implementation and verification of point 15) and its exemptions?

- ☐ 1 – not at all
- ☐ 2 – to a limited extent
- ☒ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

The main challenge is the interaction between DNSH screening, river-basin planning and environmental permitting. Strategic assessments of public-service needs, viable alternatives and consistency with river-basin management plans should be performed or validated by competent authorities. Beneficiaries should provide project-level evidence within their control, such as technical designs, permits and applicable environmental assessments and conditions. Existing documentation should be reused. The guidance should explain how relevant Water Framework Directive assessments and any applicable exemptions and their conditions are taken into account in the DNSH decision.

Do you have experience in proving that a project does not disrupt river continuity in free-flowing river stretches?

- ☐ Yes
- ☒ No

Do you have any comments on point 16) and/or its related exemptions in section 2.A of the concept paper?

- ☒ Yes
☐ No

Are the scope and formulation of point 16) and its exemptions clear?

- ☐ 1 – not at all
☒ 2 – to a limited extent
☐ 3 – to some extent
☐ 4 – to a great extent
☐ Do not know

Which element(s) need(s) to be further clarified? Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

The drafting of “plant runs on onsite renewable energy” is problematic. Desalination plants are increasing the renewable energy produced onsite, but this is an ongoing process that is not always possible (due to physical limitations). It should be redrafted to say that the plant runs on renewable energy or is planning to cover as much as possible of its energy demand with renewable energy generated onsite. The alternative in Point 16 (on-site renewable energy and connection to the electricity grid) should be retained and clearly reflected in the guidance, recognising that physical constraints may limit on-site generation.

The assessment of viable alternative water-supply / water-saving measures should be performed/ validated by competent authorities through water planning and permitting, not by the operator.

Where the relevant river-basin / water-supply plan, or the applicable permit, confirms that no other viable supply or water-saving measure is available, alignment with that plan, compliance with applicable brine-discharge requirements and possession of all required permits should be sufficient to establish DNSH compliance as regards water-related impacts. These findings should be accepted as evidence for the carve-out, avoiding separate reassessment by beneficiaries.

The reference to “no other viable supply or water-saving measures” should be revised. Water-saving measures should not be treated as an alternative that must be exhausted before a desalination project can comply with DNSH. They should be pursued in parallel with developing additional supply capacity: they reduce demand but do not create a new source of supply where scarcity is structural, where there is drought risk or where demand is growing. They are also planned and implemented at river-basin or supply-system level, rather than by the operator or authority developing the plant. Hence, we suggest deleting the reference to “water-saving measures” from point 16, where scarcity is structural.

Do you expect any challenges in the implementation and verification of point 16) and its exemptions?

- ☐ 1 – not at all
☐ 2 – to a limited extent
☐ 3 – to some extent
☒ 4 – to a great extent
☐ Do not know

Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

As mentioned above, it may be impossible for some plants to generate onsite the renewable energy needed to cover its energy demand.

The main implementation challenge is demonstrating the absence of viable alternatives when water-resource planning and the assessment of supply and water-saving options fall within the responsibilities of competent authorities. Operators should be able to rely on plans and permitting decisions that contain or validate this assessment, without reproducing strategic comparisons outside their control. They should provide relevant project-level permits and evidence on brine discharge and the applicable energy-supply condition, reusing existing technical and environmental assessments.

Significant challenges would also arise if project promoters were required to demonstrate that no other water-saving measures are available. This would impose on an individual project the assessment of measures that are normally planned and implemented across the wider river basin or supply system, leading to disproportionate administrative burden, inconsistent assessments and delays. It would also require promoters to account for measures implemented by other actors, which may take considerable time or may not provide the additional supply capacity needed. The assessment should instead rely on existing water-resource planning, river-basin management, water-supply planning and permitting procedures. Where the competent authority has assessed the availability and viability of alternative supply measures, that assessment should be accepted as sufficient evidence for DNSH verification, without a separate reassessment by the beneficiary, the managing authority or the auditor.

Do you have any comments on point 17) and/or its related exemptions in section 2.A of the concept paper?

- ☒ Yes
☐ No

Are the scope and formulation of point 17) and its exemptions clear?

- ☐ 1 – not at all
☒ 2 – to a limited extent
☐ 3 – to some extent
☐ 4 – to a great extent
☐ Do not know

Which element(s) need(s) to be further clarified? Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

Regarding water metering, just having water metering is not enough to prevent doing significant harm. A reduction in water consumption would avoid harm on water resources or reducing pollution.

An investment that leads to a net increase of an irrigated area should not be carved out of activities that do significant harm, because there is an impact on water resources. This is the Jevon's paradox, where and increased efficiency leads in the end to a higher (water) consumption.

Something completely missing is the impact of agriculture on pollution of water resources (through nitrates, pesticides (like TFA)). This affects severely water resources, in particular those intended for human consumption. There are many examples in Spain where drinking water supply had to be interrupted due to nitrates pollution from agriculture.

Alongside these concerns, the guidance should clearly preserve eligibility for investments enabling reclaimed-

water use under point 17(c). Compliance with Regulation (EU) 2020/741, the Water Framework Directive, applicable permits and relevant river-basin management plans should be sufficient to establish DNSH compliance for requirements already covered by those instruments. Improvements to existing irrigation using reclaimed water should remain eligible where they reduce abstraction pressure and do not cause deterioration of the status of the water bodies concerned. The metering requirement in point 17(a) and relevant water-protection conditions should be preserved.

It should be borne in mind that there is not only circularity while using reclaimed water as an alternative water supply for irrigation (in compliance with Regulation EU 2020/741), but also in some amounts of nitrogen and phosphorus present in reclaimed water.

Do you expect any challenges in the implementation and verification of point 17) and its exemptions?

- ☐ 1 – not at all
- ☐ 2 – to a limited extent
- ☒ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

Responsibilities should be clearly allocated among infrastructure operators, agricultural users and competent authorities. An operator investing in reclaimed-water infrastructure should not be required to independently establish river-basin conditions or prove compliance with obligations assigned to agricultural users.

Authorities should perform or validate strategic assessments and consistency with river-basin management plans; beneficiaries should provide project-level evidence within their control. Verification should reuse existing permits, technical documentation, metering and operating data and assessments prepared under Regulation (EU) 2020/741 and the Water Framework Directive. For improvements to existing irrigation using reclaimed water, evidence should demonstrate reduced abstraction pressure and no deterioration in the status of the water bodies concerned.

Do you have any comments on point 18) and/or its related exemptions in section 2.A of the concept paper?

- ☒ Yes
- ☐ No

Are the scope and formulation of point 18) and its exemptions clear?

- ☐ 1 – not at all
- ☒ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☐ Do not know

Which element(s) need(s) to be further clarified? Please justify your answer, providing examples where possible, and drafting suggestions if relevant

2000 character(s) maximum

If talking about substances of very high concern as referred to in REACH Regulation (CMR Substances: Carcinogenic, mutagenic, or toxic to reproduction: PBT and vPvB Substances: Persistent, bioaccumulative, and toxic (PBT) or very persistent and very bioaccumulative (vPvB), such as PFAS; Substances of Equivalent Concern), it is not enough to have approaches that minimise the relevant concern. The concern should be eliminated. If we talk about carcinogenic substances, for example, where and how do you set the bar to say that the concern has been minimised?

Do you expect any challenges in the implementation and verification of point 18) and its exemptions?

- ☐ 1 – not at all
- ☐ 2 – to a limited extent
- ☐ 3 – to some extent
- ☐ 4 – to a great extent
- ☒ Do not know

Do you have experience in setting approaches that mitigate SVHC environmental and health risks during their manufacturing?

- ☐ Yes
- ☒ No

Final questions

Do you consider that any of the criteria included in the concept paper are not necessary?

- ☒ Yes, one or more are not necessary
- ☐ No, they are all necessary

Please explain your reply. Which criterion is not necessary and why?

2000 character(s) maximum

At this stage, it is not so much about them being necessary or not. It is that the concept note is premature. As stated in the answer to the 1st question, it is extremely surprising that there is a concept note based on a piece of legislation that has not even been adopted. The concept note is based entirely on the version of Article 5 included in the COM proposal for the Performance Framework Regulation. The European Parliament does not yet have a position (the indicative plenary sitting is scheduled for 14 December 2026). And the Council has only a partial position in which Article 5 differs significantly from the COM proposal. Trilogue has not started yet, but it seems very likely it will bring changes to this article, which means the concept note may not even be valid anymore in a few months. Hence, the consultation seems very rushed.

Beyond the legislative timing issue, additional standalone DNSH assessments are unnecessary where applicable EU sectoral legislation and permitting rules fully address the relevant environmental risks. Compliance with those requirements and possession of all required permits should be sufficient.

DNSH compliance and State aid compatibility should remain distinct. Where an investment is assessed under both frameworks, relevant environmental evidence already submitted in one procedure should be reusable in the other, avoiding duplicate assessments and reporting.

Do you see the need to include any additional criteria or areas not covered in the concept paper?

☐ Yes

☒ No

Background Documents

[DNSH Concept paper 15.7.2026 - for publication.pdf](#)

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