

Targeted public consultation - draft guidance on the application of the 'do no significant harm' principle under the 2028-2034 Multiannual Financial Framework (MFF)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

Business & Science Poland

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

PL - Poland

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 specify

Policy Advocacy - representing industry (copper, silver mining), energy (utilities) and transport sectors in Poland, among others

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

The single list of criteria and pre-defined carve-outs is a simplification that nonetheless leaves several questions unanswered or goes in a direction which we deem counterproductive. Our reservation is that the criteria in Section 2 diverge from the concept paper's own starting point in three distinct ways.

First, they duplicate assessments already performed. Several criteria apply irrespective of whether an installation holds an integrated permit, has passed an environmental impact assessment, or operates under an approved extractive waste management plan. Where the IED and its BAT conclusions, the EIA Directive, the Water Framework Directive, the Extractive Waste Directive, the ETS and REACH apply, the objectives DNSH protects are already subject to binding thresholds, permitting procedures and enforcement, with settled case law.

Second, they capture investments that improve environmental performance. The carve-outs are drawn narrowly enough to catch measures delivering immediate emission reductions — replacement of coal units by high-efficiency cogeneration, repurposing of existing infrastructure for CO₂ transport and storage, investment at installations where natural gas is feedstock rather than fuel. A criterion that blocks financing of the intermediate step delays transition rather than accelerating it.

Third, they treat new capacity as presumptively harmful where new capacity is what makes higher standards achievable. Greenfield development allows environmental and multimodal objectives to be designed in from the outset rather than retrofitted piecemeal.

DNSH sits in the Financial Regulation as an element of sound financial management. In these three cases it operates instead as a separate environmental regime with its own criteria, uncoordinated with the instruments governing the same objectives. Our concern is coherence between the budget and substantive law, not the level of environmental protection.

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

Yes, in principle. A closed, published list known before programming removes the main source of uncertainty under the current period, where criteria were often applied after programmes were designed and differed between funds for identical activities. For capital-intensive, multi-annual industrial and infrastructure projects, predictability of the rules is a precondition of the investment decision.

We welcome the clarification in footnote 11 that compliance with the technical screening criteria under a Taxonomy delegated act is treated as compliance with DNSH. The same logic should extend to the other instruments setting binding environmental standards for the installations concerned which should establish a presumption of compliance or at minimum a simplified assessment path.

The simplification is incomplete in one respect. The list tells a beneficiary whether an activity is caught, but not how compliance is demonstrated where it is. Verification is therefore impossible as of yet.

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

Only if DNSH operates consistently with the Union's other legislative judgements. The Critical Raw Materials Act designates copper among strategic raw materials, sets binding extraction, processing and recycling benchmarks, and recognises Strategic Projects as being in the public interest. The Net-Zero Industry Act does the same for net-zero manufacturing. The TEN-T Regulation sets out the network the Union has determined it needs. These are decisions taken by the co-legislators about which activities and which infrastructure the Union requires.

Where the budget framework applies criteria that make it harder to finance precisely those activities, the two instruments pull against each other and the objectives of neither are achieved. The guidance should state that an activity recognised as strategic under sectoral Union legislation is assessed consistently with that recognition.

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

Not sufficiently. The concept paper takes existing EU law as its starting point but the criteria in Section 2 do not consistently reflect it.

An installation holding an integrated permit under the IED operates within emission levels associated with best available techniques, set by BAT conclusions and enforced by the competent authority. A project has passed an environmental impact assessment, and where relevant an Article 6(3) appropriate assessment and an Article 4(7) analysis under the Water Framework Directive. Extractive waste facilities operate under approved waste management plans with financial guarantees and major-accident prevention obligations.

Each performs, for a specific objective, the function DNSH performs generically — with defined thresholds and settled case law. The guidance should provide that compliance with these instruments constitutes evidence of compliance with the corresponding DNSH environmental objective.

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

The three factors in Article 5 — size, impact and territorial characteristics — are the right ones, but size is doing too much work relative to impact. Project value is a poor prox for environmental risk. A large investment in emission abatement, heat recovery or process electrification at an existing installation may have a high capital cost and a strictly positive environmental effect.

Proportionality should be calibrated to the marginal environmental effect of the supported investment against the existing baseline, not to its cost. Investments in existing permitted installations that maintain or improve performance against the applicable BAT-AELs should follow a simplified path. As drafted, proportionality is stated as a principle in Section 1 but is not operationalised in the Section 2 criteria.

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

Pilot and demonstration projects should be assessed against the exclusion of manifest significant harm and the adequacy of risk management, not against the criteria applied to mature commercial investments. By definition their environmental performance is not yet established — that is what the project determines. Applying outcome-based thresholds to them screens out precisely the technologies needed to meet those thresholds later. Practically: for installations operating under existing permits, research and demonstration activities within the permitted envelope should be treated as compliant. Where a project falls outside it, the applicable permitting and EIA procedures already provide the assessment.

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

- ☒ Yes
☐ No

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

1000 character(s) maximum

A simplified model based on a published exclusion list applied at portfolio level. For general-purpose financing - working capital, equity-type products - the destination of individual expenditure is not identifiable ex ante, and a transaction-level DNSH assessment is not operationally possible. The exclusion list should be the same one used elsewhere in the guidance, so that intermediaries apply a single standard. Financial instruments are a principal route to financing industrial transition and must remain usable for that purpose.

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 Financial Regulation definition already covers extraordinary circumstances, but the guidance should make explicit that it extends to severe disruption to security of energy supply and to supply of critical raw materials and products essential to the functioning of the internal market. Disruptions of this kind propagate quickly into industrial production, prices and social stability, and the response is often precisely the investment the criteria would otherwise catch.

We suggest the guidance name, as capable of constituting a crisis: energy supply crises; threats to security of supply of critical raw materials; and disruption to supply chains for strategic products.

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

1000 character(s) maximum

The reference to ROPI as developed under the Habitats, Birds and Water Framework Directives is the right anchor, and it should be followed through.

The Critical Raw Materials Act already provides that Strategic Projects are in the public interest and may be treated as being of overriding public interest for the purposes of Article 6(4) of the Habitats Directive and Article 4(7) of the Water Framework Directive. Where a Member State has made that determination, with compensatory measures, the assessment has been carried out under the very instruments the concept paper relies on.

The guidance should provide that such a determination carries through to DNSH rather than being re-examined under separate criteria.

Projects securing energy supply, critical raw materials security, or the resilience of critical energy infrastructure should likewise be capable of constituting overriding public interest.

Please provide your comment on the definition of defence, including dual-use activities

1000 character(s) maximum

We support including military mobility among the situations where DNSH is not feasible or appropriate.

The condition that the military purpose be present from the beginning of the programming and be credible and demonstrable is insufficiently precise and will generate uncertainty at the point of programming, when eventual use of infrastructure is not always fixed. For infrastructure, designation of a project as intended for military mobility should be sufficient, provided the infrastructure — including newly built roads, railways and airports — meets the technical requirements for dual-use infrastructure in Commission Implementing Regulation (EU) 2021/1328 and forms part of the military mobility network.

This gives an objective, verifiable test in place of an assessment of intent.

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

1000 character(s) maximum

We welcome the recognition that in certain crisis situations the application of DNSH may not be feasible or appropriate, and the acknowledgement of the position of regions on the Union's eastern border, particularly exposed to geopolitical instability.

Case-by-case justification for each activity risks reproducing the administrative burden the revision is intended to remove, at the point where speed matters most.

Where a project is located in a region exposed to heightened geopolitical risk and contributes to security of energy supply, fuel security, security of raw material supply or the resilience of critical infrastructure, it should be presumed sufficiently linked to a crisis situation, without individual justification. The presumption should be rebuttable, so the safeguard remains. This is consistent with Article 13(2), which requires justification in line with the guidance; the guidance can define categories where the link is established.

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

Transitional investments in hard-to-abate sectors where the enabling infrastructure — hydrogen networks, CO₂ transport and storage, firm low-carbon electricity - is not yet available. Where an investment delivers measurable reductions now and forms part of a credible pathway, the absence of infrastructure that public policy has not yet delivered should not disqualify it.

Strategic projects for energy and food security, and pilot and demonstration projects, on the same reasoning. Also preparatory and remediation activities - baseline studies, contamination inventories, site characterisation, environmental risk assessment - undertaken to prepare rehabilitation or decommissioning. These serve environmental restoration and should not be assessed as though they were the harm they address.

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

The proposed exposure and size criteria are not appropriate for strategic energy and critical infrastructure projects located in regions facing heightened geopolitical risks, including the EU's eastern border regions. Applying additional DNSH adaptation requirements to such projects may create unnecessary administrative burdens, legal uncertainty and delays for investments that are essential to energy security, fuel supply security and infrastructure resilience. This would run counter to the DNSH revision's objective of reducing administrative burdens. In Member States exposed to security threats, the development and modernisation of strategic energy infrastructure should be prioritised and subject to a streamlined approach. This is particularly relevant for investments in refining, fuel logistics, hydrogen infrastructure, storage and other assets that strengthen security of supply and system resilience.

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

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

Are the scope and formulation of point 1) 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

We welcome the carve-out; the guidance should confirm it covers preparatory measures, which are indispensable to identifying pollution and designing remediation at former gasworks and other legacy industrial sites, and cannot be treated as the harm they address. Wording: "...decommissioning of fossil fuel infrastructure and rehabilitation of sites, including baseline studies, contamination inventories, zoological investigations, environmental risk assessments, site characterisation and other preparatory measures (...)"

The repurposing carve-out is confined to pure hydrogen. It should extend to hydrogen storage, part of the same value chain, and to CO₂: gas infrastructure is in practice converted to CO₂ transport and storage, essential to hard-to-abate sectors. Wording: "repurposing of energy infrastructure to enable the exclusive use, storage or transport of CO₂ or pure hydrogen without the need for any further adaptation works, as defined in the TEN-E Regulation", noting TEN-E is under revision.

Without a dedicated carve-out, the criterion may restrict infrastructure needed to maintain firm network capacity for biomethane and other renewable and low-carbon gas producers — projects identifiable through network development plans and not an expansion of fossil gas use. Wording: "infrastructure to ensure firm capacity for the access of production facilities of renewable gas and low-carbon gas in line with Regulation (EU) 2024/1789."

The guidance should distinguish gas used as a fuel from gas used as technological feedstock, notably in ammonia synthesis, where it remains indispensable to fertiliser production and thus to EU food security.

Treating all gas-related investment as harmful risks blocking the transition of precisely these sectors. Projects ready for hydrogen, low-carbon fuels or CCUS should remain eligible, and EU funding should cover both zero-emission technologies and transitional investments delivering measurable reductions on credible decarb pathways.

Do you expect any challenges in the implementation and verification of point 1) 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

We support 1(f) and consider it correctly drawn. Infrastructure for the transport, transmission, distribution and storage of renewable and low-carbon fuels within transport-related sites - ports, airports, refuelling and recharging stations - is an enabling component of the transport system, supports deployment of alternatives to fossil fuels and does not generate the environmental impacts associated with their use. Its inclusion should be retained in the final guidance.

The principal verification difficulty is the boundary between infrastructure capable of handling renewable and low-carbon products and infrastructure serving fossil fuels, where physical assets are shared. The guidance should confirm that the test is the intended and technically enabled use of the supported investment, not the historical use of the site.

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

The provision in 2(a) that EU funding must not support fossil-fuel generation assets may exclude transitional investments delivering immediate and substantial emission reductions. In several Member States district heating remains heavily coal-based, and replacing coal units with high-efficiency gas cogeneration is, for many smaller systems, the step that makes rapid emission reduction and air quality improvement possible while preparing integration of renewable and low-carbon sources. We suggest deleting that condition from 2(a), retaining the efficiency requirement in Article 26 of the Energy Efficiency Directive. A gap also remains for heating installations above 20 MWth that are not listed in Annex I to the ETS Directive: they fall outside point 3 and benefit from neither route.

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

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

- ☒ Yes
- ☐ No

Are the scope and formulation of point 3) 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

Point 3 applies to industrial activities in installations covered by Annex I to the ETS Directive, insofar as the industrial process is concerned. Annex I item 6 covers non-ferrous metals, including refining and foundry casting, where combustion units exceed 20 MW total rated thermal input; copper and silver smelting and refining therefore fall within point 3.

We ask that the processing, refining and recycling of strategic raw materials be carved out. The Critical Raw Materials Act designates copper as strategic and sets binding Union benchmarks for extraction, processing and recycling. Applying to that capacity a criterion designed to restrain fossil-based emissions works against a benchmark the co-legislators set, and no alternative route exists: capacity cannot be relocated within the Union without the same criterion applying. Copper and silver are indispensable to electrification, grid build-out and defence.

Suggested addition: "(d) processing and refining of strategic raw materials as listed in Annex II to Regulation (EU) 2024/1252, where the installation operates in compliance with the emission levels associated with best available techniques under its integrated permit." The BAT condition ties the carve-out to an enforced standard, not sectoral status alone.

Extraction. This is not an Annex I activity and point 3 is expressly limited to the industrial process. The guidance should confirm that extraction falls outside point 3, so that managing authorities do not interpret it divergently.

The criteria should also accommodate investments improving energy efficiency, enabling heat recovery, increasing security of energy supply for strategic installations, or moving to low-emission technologies. In the chemical industry, continuity of energy and heat supply is essential to safe operation and to basic chemical production.

Threshold. The proposed [30-40%] GHG avoidance requires clarification: the draft does not specify the reference point for assessment.

Do you expect any challenges in the implementation and verification of point 3) 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 of phased investment is the principal difficulty. Industrial decarbonisation at metallurgical, refining and chemical installations proceeds in stages; first reductions often appear only after several years, and the full effect frequently depends on subsequent investment or on external infrastructure - hydrogen supply, CO₂ transport, firm low-carbon electricity - that public policy has not yet delivered. Assessment at a single point in time will exclude projects that are necessary conditions for deep reduction later.

Verification should accept a decarbonisation plan with milestones, emission reduction indicators and an explicit statement of infrastructure dependencies, as contemplated in footnote 35.

The threshold itself also requires a defined reference point. The concept paper does not specify the baseline against which [30-40%] avoidance is measured — historical installation emissions, a sectoral benchmark, or a counterfactual. Without this the criterion cannot be applied consistently.

Exemption a) includes a list of decarbonisation and net-zero technologies to be considered not to do significant harm. Are there any critical industrial decarbonisation technologies or techniques that are **not** captured by the list in a) and that would not meet the [30-40%] threshold under exemption b)?

- ☒ Yes
- ☐ No, the list is complete

Please specify which one

1000 character(s) maximum

Process electrification, including electrification of chemical processes; waste heat recovery and use; carbon capture, utilisation and storage; use of CO₂ as feedstock; low-carbon and renewable hydrogen production; industrial-scale energy storage; chemical recycling; metallurgical off-gas treatment and sulphur recovery; hydrometallurgical processing routes with lower energy intensity; recovery of metals from process residues and secondary raw materials; digital energy optimisation systems; and retrofits enabling progressive substitution of natural gas by hydrogen or other low-emission fuels.

Beyond individual technologies, enabling investments should be recognised: works that do not themselves reduce emissions but are a precondition for later reduction, including grid connections, hydrogen and CO₂ readiness, and site capacity works on which subsequent decarbonisation depends.

Do you consider a threshold set within the range of 30-40% relative emission reductions (exemption b.) effective to promote emerging solutions for clean industrial transition, while avoiding crowding out investments in technologies in exemption a)?

- ☐ 1 - Yes.
- ☐ 2 - No, the threshold should be higher.
- ☒ 3 - No, the threshold should be lower.

Please explain your answer, suggesting the appropriate threshold value and providing evidence/practical examples

1000 character(s) maximum

This is a fallback should the carve-out set out above not be adopted, not an alternative to it. A 30-40% relative reduction is set above what the first stage of transformation typically delivers in metallurgy and heavy chemicals, where initial measures — heat recovery, electrification of discrete process steps, off-gas treatment — commonly yield 15-25%. A threshold above that range screens out the investments that make later deep reduction achievable, which is the opposite of the intended effect. We suggest 20-25%, combined with a credible plan for further reduction.

When applying exemption b), should any special considerations be taken to those installations that already undertook efforts towards a transformation ("frontrunners")?

- ☒ Yes
- ☐ No

Please specify how to take account of reasonable and demonstrable investments already undertaken to decarbonise

1000 character(s) maximum

A fixed relative threshold measures improvement against the installation's own current performance, so the more an operator has already achieved, the harder the threshold becomes. Installations that decarbonised early are penalised for having done so, and those that did not are advantaged. The criteria should not penalise transition leaders.

Assessment should take account of documented historical investment, current emission intensity measured against the relevant BAT-AELs or sectoral benchmark, reductions already delivered, and the plan for further transformation. Where an installation already operates at or near best available performance, demonstrating maintenance of that level with a credible pathway should suffice in place of a further relative reduction.

Which technological, infrastructure or local constraints do you consider relevant for gradual achievement of the GHG emission reductions under exemption b)?

1000 character(s) maximum

Technological: limited maturity and availability of certain net-zero technologies at industrial scale; staged deployment of renewable and low-carbon hydrogen production; process routes in metallurgy for which no commercially proven low-carbon alternative yet exists.

Infrastructure: absence of hydrogen transport networks and of CO₂ transport and storage chains; insufficient firm low-carbon electricity capacity and grid connection capacity at industrial sites.

Local: permitting timelines; availability of low-carbon energy at competitive cost in the relevant market; sequencing constraints where an installation must maintain continuous operation for safety or security of supply reasons.

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

- ☐ Yes
☒ No

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

- ☒ Yes
☐ No

Are the scope and formulation of point 5) 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 treatment of road construction and expansion should be aligned with the EU Taxonomy. Activity 6.15 of the Climate Delegated Regulation, infrastructure enabling low-carbon road transport and public transport, may qualify as environmentally sustainable where the technical screening and DNSH criteria are met. Point 5 nevertheless treats construction and expansion of roads as presumptively harmful.

The same investment may therefore be reported by an undertaking as Taxonomy-aligned while being ineligible for support under the MFF. Infrastructure serving low-emission road transport and electric vehicles is the clearest case.

The guidance should provide that an activity meeting the technical screening criteria and the DNSH criteria of the relevant Taxonomy delegated act is treated as satisfying point 5. Footnote 11 already states this principle for the guidance as a whole; it should be applied explicitly to the intervention fields where the two frameworks visibly diverge.

Do you expect any challenges in the implementation and verification of point 5) 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

This criterion does not apply to interventions that cover small-scale roads, which are defined as roads that are shorter than 2 km. Is the 2km threshold reasonable?

- ☐ Yes, it is reasonable
- ☐ No, the threshold is too high
- ☐ No, the threshold is too low

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

Are the scope and formulation of point 10) 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

We support the approach: construction of a new airport is not treated as significant harm where accompanied by permanent decommissioning of an existing one. The condition is proportionate and reflects that new airports are typically built because expansion at an existing site is technically, operationally or environmentally unfeasible, or would not provide the most effective long-term solution.

Greenfield development allows environmental and multimodal objectives to be embedded in the design rather than retrofitted. A railway station integrated into the terminal from the outset can be designed as an integral part of the wider rail network rather than a spur terminating at the airport, and interchange quality — transfer times, passenger flows, wayfinding and signage, physical layout - can be resolved at design stage. Retrofitted solutions produce complex corridors, tunnels and junctions that make transfer less intuitive, increase passenger confusion and reduce the attractiveness of rail as a means of accessing the airport. Higher environmental standards in building systems, renewable energy and heating, thermal performance and recognised certification schemes are likewise more achievable without legacy constraints.

Air-rail integration also extends an airport's catchment area and shifts a proportion of short-haul journeys to rail, freeing airport and airspace capacity for longer-distance connections for which air transport remains essential. One clarification: the guidance should confirm the decommissioning condition is satisfied by a binding commitment with a defined date, since decommissioning necessarily follows completion of the replacement facility.

Do you expect any challenges in the implementation and verification of point 10) 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 any comments on point 11) and/or its related exemptions in section 2.A of the concept paper?

- ☒ Yes
- ☐ No

Are the scope and formulation of point 11) 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

Point 11 refers to landfill facilities as defined in Article 2(g) of Directive 1999/31/EC. That Directive does not apply to the deposit of waste from extractive industries, which is governed by Directive 2006/21/EC and its own regime of waste management plans, Category A classification, financial guarantees and major-accident prevention.

The guidance should confirm expressly that extractive waste facilities fall outside point 11. As drafted the position depends on tracing a cross-reference through two Directives, which is exactly the kind of interpretive uncertainty the single list is intended to remove, and managing authorities are likely to resolve it inconsistently. We also note 11(c) carves out landfills for inert waste and excavated material from Trans-European Transport Network projects. The same reasoning applies to inert material from other infrastructure and industrial projects, and the restriction to TEN-T appears arbitrary.

Do you expect any challenges in the implementation and verification of point 11) 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 any comments on point 12) and/or its related exemptions in section 2.A of the concept paper?

- ☒ Yes
- ☐ No

Are the scope and formulation of point 12) 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

Point 12 requires clarification as regards advanced municipal waste treatment facilities producing renewable hydrogen from non-recyclable waste streams. These differ materially from conventional mechanical biological treatment, whose primary function is waste stabilisation and production of an energy-rich fraction, and which typically operates in the absence of effective sorting and separate collection.

Advanced facilities of this kind contribute directly to circular economy objectives, renewable and low-carbon fuel production, industrial decarbonisation and greenhouse gas emission reduction. They should fall outside the scope of point 12.

Suggested carve-out: "plants producing renewable hydrogen from non-recyclable waste streams."

Do you expect any challenges in the implementation and verification of point 12) 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 any comments on point 13) and/or its related exemptions in section 2.A of the concept paper?

- ☐ Yes
- ☒ 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

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

- ☐ Yes
- ☒ No

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

- ☐ Yes
- ☒ No

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

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

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

2000 character(s) maximum

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

- ☒ Yes
- ☐ No

Which approaches? How could these be proven and evidenced?

1000 character(s) maximum

Closed systems and process containment; emission and exposure monitoring; substitution where technically and economically feasible; safe use instructions and safety data sheets; risk assessment and REACH authorisation or restriction compliance documentation.

For non-ferrous metallurgy, arsenic and other substances of concern arise as unavoidable constituents of the ore body rather than as manufactured products. Handling them under permitted, monitored conditions is itself the environmentally preferable outcome, since the alternative is that they remain uncontrolled or that processing occurs outside the Union under weaker standards. The guidance should recognise this where the concern is minimised at the design or redesign stage of the process.

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

The additional climate adaptation criteria contemplated in Section 1.C. Large-scale infrastructure and critical infrastructure projects - particularly those contributing to energy security, industrial decarbonisation, renewable and low-carbon fuels, hydrogen value chains and network development - are already subject to extensive regulatory, permitting and environmental assessment requirements under Union and national law, including climate vulnerability assessment under the EIA Directive and, where Union-funded, climate proofing requirements.

An additional DNSH-specific layer keyed to exposure and project size would duplicate assessments already performed and risks unnecessary administrative burden, legal uncertainty and delay for projects essential to the energy transition and to security of supply, without a demonstrated gap in the existing framework.

We would add point 3 as it applies to installations covered by the EU ETS. Those installations already operate under the Union's principal instrument for greenhouse gas reduction, with monitoring, reporting, verification and a declining cap, alongside BAT-AELs under their integrated permits. A further DNSH-specific reduction threshold duplicates a framework that already governs the objective the criterion pursues, using a fixed percentage the ETS itself does not apply. Where an activity is ETS-covered, compliance with the ETS and the applicable BAT conclusions should be treated as satisfying point 3.

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

- ☒ Yes
- ☐ No

Please explain your reply. Which additional criterion or area should the proposed approach cover?

2000 character(s) maximum

First, the form of the instrument. The concept paper does not settle whether the criteria will be issued as guidance or in a delegated or implementing act. This matters: criteria in a delegated act become justiciable and considerably harder to adjust as technologies and Union legislation develop, which cuts against the flexibility the concept paper seeks. If a binding form is chosen, it should carry an explicit and expedited review clause. Second, consistency with sectoral legislation. The guidance should state the relationship between DNSH and the Critical Raw Materials Act, the Net-Zero Industry Act and the TEN-T Regulation. Where those instruments designate activities or infrastructure as strategic and provide for treatment as overriding public interest, the guidance should confirm DNSH is applied consistently rather than as an independent obstacle.

The evidence standard. The list identifies which activities are caught but not what demonstrates compliance where they are. The guidance should set out, for each criterion, the documents sufficient to establish compliance -integrated permits and demonstrated BAT-AEL compliance, environmental impact assessment decisions, Article 6(3) and Article 4(7) assessments, extractive waste management plans, and valid national extraction and operating permits. Recognised voluntary certification schemes may serve as supplementary corroboration but should not be required.

Carbon leakage - criteria that constrain financing of industrial capacity within the Union without affecting the demand that capacity serves relocate production rather than emissions, to jurisdictions with weaker environmental standards. This bears directly on strategic autonomy in raw materials, on fertilizer and ammonia capacity underpinning food security, and on the resilience of Union supply chains. EU funding should support both zero-emission technologies and transitional investment delivering measurable reductions along credible decarb pathways.

Background Documents

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

Contact

EC-DNSH-GUIDANCE-FMB@ec.europa.eu