

GUIDELINES FOR THE APPLICATION OF PRIORITY TREATMENT OF PERMIT APPLICATIONS FOR GREEN TRANSITION PROJECTS IN RE- GIONAL STATE ADMINISTRATIVE AGENCIES

Guidelines for the Environmental Permits departments of Regional State Administrative Agencies and the Environment and Natural Resources departments of Centres for Economic Development, Transport and the Environment, as well as for applicants of environmental permits and permits under the Water Act who seek priority processing for their applications

Contents

Key abbreviations and statutes	3
Figures, fact boxes and table	3
1. Objectives and premises of the guidelines.....	4
1.1 Goals and limitations	4
1.2 Premises	5
1.3 Structure of the guidelines	6
2. Priority treatment in the processing of an environmental permit application and a permit application under the Water Act by the Regional State Administrative Agency	7
2.1 Priority treatment.....	7
2.2 Sectors/projects falling within the scope of priority treatment.....	9
2.2.1 General	9
2.2.2 Energy production establishments that use renewable energy to produce energy, and offshore wind farms and the related water resources management projects.....	10
2.2.3 Industrial projects based on renewable energy or electrification that replace the use of fossil fuels or raw materials.....	10
2.2.4 Production and use of hydrogen, with the exception of hydrogen production from fossil fuels; ..	11
2.2.5 Capture, utilisation and storage of carbon dioxide	11
2.2.6 Battery factories and the manufacture, recovery and reuse of battery materials.	11
2.2.7 An application for a group of activities, if the need for the permit is essentially based on an activity referred to in section 2a, subsection 2	11
2.3 Activities adhering to the 'do no significant harm' principle	13
2.3.1 Section 2a of the AVI Processing Act and the 'do no significant harm' principle.....	13
2.3.2 Contents of the DNSH study.....	14
3. Centres for Economic Development, Transport and the Environment in promoting the green transition	18
3.1 General information on green transition projects from the perspective of the Centres for Economic Development, Transport and the Environment	18
3.2 Additional resources allocated to ELY Centres.....	19
3.3 Streamlining at the ELY Centre	19
3.4 Exchange of information between ELY Centres and Regional State Administrative Agencies	20
ANNEX A. Use of a previously completed DNSH study when requesting priority treatment in the procedure under section 2a of the AVI Processing Act.....	21
ANNEX B. Useful links to materials and training	22

Key abbreviations and statutes

AVI	Regional State Administrative Agency
AVI Processing Act	Act on the Processing of Environmental Protection and Water Matters by Regional State Administrative Agencies (Laki ympäristönsuojelu- ja vesiasioiden käsittelystä aluehallintovirastossa 898/2009)
Section 2a of the AVI Processing Act	Section 2a included in the Act on the Temporary Amendment of the Act on the Processing of Environmental Protection and Water Matters by Regional State Administrative Agencies (Laki ympäristönsuojelu- ja vesiasioiden käsittelystä aluehallintovirastossa annetun lain väliaikaisesta muuttamisesta 1144/2022)
DNSH, the DNSH principle	Do no significant harm, Do no significant harm principle
DNSH assessment	Assessment of the adequacy of the DNSH study (carried out by the Regional State Administrative Agency)
DNSH study	No significant harm study (carried out by the applicant seeking priority treatment)
ELY Centre	Centre for Economic Development, Transport and the Environment
RRF	EU Recovery and Resilience Facility
Water Act (587/2011)	
Environmental CS	Environmental customer service (centre)
Environmental Protection Act (527/2014)	
EIA	Environmental impact assessment procedure in accordance with the Act on Environmental Impact Assessment Procedure (252/2017)

Figures, fact boxes and table

Figure 1. Priority treatment in permit processing. The figure outlines the main features of priority treatment in permit processing under the AVI Processing Act

Figure 2. Summary of the DNSH study structure

Fact box 1. Sample contents of a request for priority treatment of a permit application

Fact box 2. Background on the Do No Significant Harm principle

Table 1. Environmental objectives and objective-specific main questions and further questions

1. Objectives and premises of the guidelines

1.1 Goals and limitations

These guidelines are intended for the use of the Environmental Permits departments of Regional State Administrative Agencies (hereinafter also 'AVI') when applying the Act on the Temporary Amendment of the Act on the Processing of Environmental Protection and Water Matters by Regional State Administrative Agencies (1144/2022, valid from 1 January 2023 to 31 December 2026, *hereinafter also 'section 2a of the AVI Processing Act'*).

The guidelines are also intended for applicants of environmental permits under the Environmental Protection Act (527/2014) and/or water permits under the Water Act (587/2011) seeking priority treatment in the processing of their application. The guidelines contain practical information for applicants on what is required to obtain priority treatment.

The guidelines also address aspects related to the duties of the Centres for Economic Development, Transport and the Environment (hereinafter also 'ELY Centre') when, for example, they serve as the contact authority responsible for organising the environmental impact assessment procedure for a green transition project or issuing a statement to the Regional State Administrative Agencies on permit applications for projects requiring an environmental permit or permit under the Water Act (see section 3).

Act on the Processing of Environmental Protection and Water Matters by Regional State Administrative Agencies

Section 2a Processing order of certain permit applications under the Environmental Protection Act and the Water Act

The Regional State Administrative Agency shall give priority to the processing of an environmental permit application for activities adhering to the 'do no significant harm' principle referred to in Article 17(1) of Regulation (EU) 2020/852 of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 and to a permit application for a water resources management project under the Water Act over other permit applications submitted in accordance with the Environmental Protection Act and the Water Act. The applicant must provide sufficient information of their right to priority treatment in connection with their application.

The permit applications that shall be given priority treatment under subsection 1 above are applications concerning:

- 1) energy production establishments that use renewable energy to produce energy, and off-shore wind farms and the related water resources management projects;
- 2) industrial projects based on renewable energy or electrification that replace the use of fossil fuels or raw materials;
- 3) the production and use of hydrogen, with the exception of hydrogen production from fossil fuels;
- 4) capture, utilisation and storage of carbon dioxide; and
- 5) battery factories and the manufacture, recovery and reuse of battery materials.

An application for a group of activities shall also be given priority treatment under subsection 1 above if the need for the permit is essentially based on an activity referred to in subsection 2.

Further provisions on the information referred to in subsection 1 may be given by government decree.

These guidelines deal with matters related to the application of section 2a of the AVI Processing Act, such as:

- which sectors/projects are concerned by the priority treatment;
- the 'do no significant harm' principle (DNSH principle) and how applicants can demonstrate that the project adheres to it; and
- priority treatment and its meaning.

The guidelines are intended to support the enforcement of legislation. The aim is that the aforementioned section of the AVI Processing Act would be applied in a uniform manner across the nation. These guidelines have been written with a practical and illustrative presentation and concise language in mind.

The guidelines will be updated as necessary.

1.2 Premises

The proposal for priority treatment is based on the programme of Prime Minister Sanna Marin's Government and, among other things, the Government's strategic objective of Finland achieving carbon-neutrality by 2035. According to the government proposal to Parliament for legislation on temporary priority treatment for certain green transition projects in the permit processing of Regional State Administrative Agencies in 2023–2026 and in the administrative courts in 2023–2028 (HE 128/2022 vp), the legislation will also promote the Government Programme's objective according to which Finland aims to be the world's first fossil-free welfare society. The proposal and the legislation passed according to it are also linked to the Government Programme's objectives of strengthening Finland's role as a leader in the circular economy and halting the decline of biodiversity in Finland. The legislation also takes into account the impact of low-carbon production on sustainable economic growth.

The new section 2a of the AVI Processing Act will be in force from 1 January 2023 to 31 December 2026. Its key objective is to promote investments into the green transition by speeding up the processing of the relevant permit applications under the Environmental Protection Act and the Water Act by the Regional State Administrative Agencies, as stated in government proposal HE 128/2022 vp. The aim is not to delay the processing of other permit applications processed in the normal procedure at the AVIs. Additional resources will be granted to ensure this.

A need for practical guidelines to ensure the smoothest possible application of the legislation has been identified in the government proposal and discussions of the matter in Parliament, among other places. Officials and experts from the Regional State Administrative Agency for Northern Finland, the Regional State Administrative Agency for Eastern Finland, the Centre for Economic Development, Transport and the Environment of South Ostrobothnia, the Finnish Environment Institute and the Ministry of the Environment have participated in the preparation of the guidelines. A stakeholder meeting was held on the draft guidelines on 12 December 2022.

The ongoing "DNSH in Finland" project funded by the European Commission's Directorate-General for Structural Reform Support with the aim of developing national guidelines for the application of the 'do no significant harm' principle in public funding has also been leveraged in drawing up the guidelines. The project is guided by the Ministry of the Environment, the Ministry of Agriculture and Forestry, the Ministry of Economic Affairs and Employment and the Ministry for Foreign Affairs. The project is implemented by Gaia Consulting Oy together with Trinomics BV and AARC Ltd.

1.3 Structure of the guidelines

The guidelines are divided into three sections. Section 1 discusses the objectives, premises and structure of the guidelines.

The key section of the guidelines is section 2, which deals with priority treatment, the sectors/projects included in the scope of priority treatment and activities/projects that adhere to the 'do no significant harm' principle.

Section 3 briefly describes the cooperation between the Regional State Administrative Agencies and the Centres for Economic Development, Transport and the Environment, and the duties of the ELY Centres in promoting the green transition.

The guidelines include annexes. Annex A provides information on the use of possible DNSH studies already carried out when seeking funding for the project when requesting priority treatment. Annex B contains useful links to the parliamentary documents of the AVI Processing Act and the principle of 'do no significant harm' in other procedures.

2. Priority treatment in the processing of an environmental permit application and a permit application under the Water Act by the Regional State Administrative Agency

2.1 Priority treatment

According to section 2a of the AVI Processing Act, priority shall be given to the processing of environmental permit applications and water permit applications for green transition projects over other permit applications under the Environmental Protection Act and the Water Act in the Regional State Administrative Agency if the following conditions are met:

- 1) the project is a green transition project under section 2a of the AVI Processing Act;
- 2) the project adheres to 'do no significant harm' principle (DNSH principle); and
- 3) the applicant provides sufficient information to demonstrate compliance with the conditions of paragraphs 1 and 2 above and thus the applicant's right to priority treatment.

Priority treatment only concerns the processing time of the permit application. In other respects, an application given priority treatment will be processed according to the same processes and criteria as any other permit application.

Section 2a of the AVI Processing Act applies equally to permit applications instituted after its entry into force on 1 January 2023 and, by virtue of the transitional provision, permit applications pending at the Regional State Administrative Agency at the time of its entry into force. A permit application may concern a new activity or a change in an existing activity. Priority treatment is only granted upon the applicant's request. The applicant may request priority treatment for their permit application from the Regional State Administrative Agency at any stage of processing. The format of the request and its grounds is free, and an example is provided in fact box 1. For example, the request can be made at the beginning of the application. In it, the applicant typically gives a brief description of the activity for which the permit is being applied for. This would be followed by a request, such as: "The applicant requests that the application be given priority treatment in processing. The DNSH study is enclosed as Annex 1." The applicant should primarily submit the request together with the application documents. If the permit application is already pending, the request for priority treatment and the DNSH study are submitted separately. Seeking priority treatment for a permit application is voluntary for the applicant, as stated in government proposal HE 128/2022 vp, p. 14.

Fact box 1. Sample contents of a request for priority treatment of a permit application

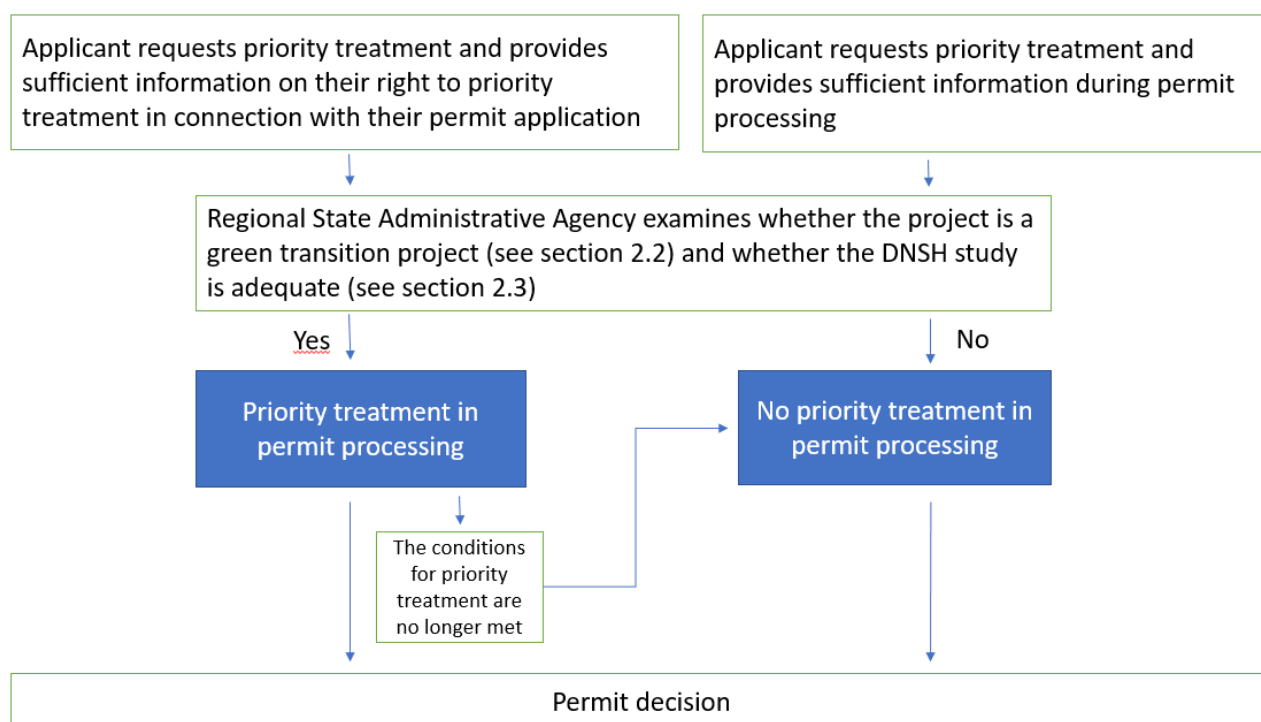
Contents of a request for priority treatment of a permit application:

- 1) Applicant's details;
- 2) The permit application under the Environmental Protection Act and/or the Water Act which the request concerns and its record number, if any;
- 3) Sufficient information on the basis of the right to priority treatment
 - The applicant's view of the type of project in question under section 2a, subsection 2 or 3 of the AVI Processing Act (see section 2.2) and the basis for this view;
 - The applicant's view on how the activity adheres to the 'do no significant harm' principle (see section 2.3 and complete and enclose Table 1) and the DNSH study/documents.

The Regional State Administrative Agency will process the request for priority treatment without delay upon receipt. To achieve this, the applicant's request and explanation of their right to priority treatment should be as well drafted as possible. If necessary, the applicant can contact the Regional State Administrative Agency before submitting the permit application.

The processing of a request for priority treatment does not include a statutory consultation or hearing procedure. If necessary, the expert processing the request can discuss the fulfilment of the 'do no significant harm' criteria with the ELY Centre supervisor. The Regional State Administrative Agency does not make any processing decisions or other decisions regarding the priority treatment. A decision to refuse priority treatment for the permit application is not open to appeal either. The applicant will be informed of whether the project will receive priority treatment. If priority treatment is not granted, the applicant should be informed of the grounds for refusing priority treatment. It is not required to provide the applicant with detailed grounds for the refusal. The Regional State Administrative Agency records the granting of priority treatment in its case management system (USPA).

Figure 1. Priority treatment in permit processing. The figure outlines the main features of priority treatment in permit processing under section 2a of the AVI Processing Act



The purpose of priority treatment is to decrease the total processing time of permit applications related to the promotion of the green transition to below the average. Government proposal HE 128/2022 vp specifies a target duration of no more than 12 months for the permit processing. The processing time begins with the submission of the request for priority treatment to the permit authority. The total processing time is case-specific and depends, among other things, on the complexity of the permit matter and whether the applicant needs to supplement their application.

The processing stages of the permit matter and the criteria for granting permits are the same as for other permit applications. The procedural provisions of the Environmental Protection Act or the Water Act applicable to permit matters have not been amended. The provisions on the conditions for granting a permit under the Environmental Protection Act and the Water Act, the need for a permit and the amendment of a permit also remain unchanged. If the priority treatment concerns the amendment of a permit, the application

must indicate the full extent of changes to the activity. The applicant should express their views on the permit provisions which will need to be reviewed due to the changes.

The Regional State Administrative Agency may end the priority treatment of a permit application during its processing if, in the opinion of the Regional State Administrative Agency, the conditions for granting priority treatment are no longer met. This situation may arise, for example, if the applicant amends their application or new information on the nature or impact of the project emerges during the processing of the permit.

Section 2a of the AVI Processing Act is in force for a fixed period and will apply until the end of 2026.

Section 2.2 of the guidelines deals with section 2a, subsections 2 and 3 of the AVI Processing Act, that is, the green transition projects to which section 2a applies. Section 2.3 of the guidelines discusses the 'do no significant harm' principle in general and in the procedure provided for in the AVI Processing Act, as well as the amount of information considered sufficient to justify priority treatment.

2.2 Sectors/projects falling within the scope of priority treatment

2.2.1 General

The sectors and project types referred to in section 2a of the AVI Processing Act are key to promoting the green transition and increasing the availability of clean energy. The sectors also correspond to the priorities of the Sustainable Growth Programme for Finland.

The green transition projects eligible for priority treatment under section 2a of the AVI Processing Act are the sectors/projects referred to in the exhaustive list in subsection 2:

- 1) energy production establishments that use renewable energy to produce energy, and offshore wind farms and the related water resources management projects;
- 2) industrial projects based on renewable energy or electrification that replace the use of fossil fuels or raw materials;
- 3) production and use of hydrogen, with the exception of hydrogen production from fossil fuels;
- 4) capture, utilisation and storage of carbon dioxide; and
- 5) battery factories and the manufacture, recovery and reuse of battery materials.

As stated in government proposal HE 128/2022 vp (p. 19), the list of projects in section 2a, subsection 2 of the AVI Processing Act would only apply to the consideration of priority treatment.

On the basis of section 2a, subsection 3 of the AVI Processing Act, priority treatment is also given to a permit application for a group of different activities, the permit requirement for which is essentially based on one of the above-mentioned activities.

Sections 2.2.2 to 2.2.6 concern section 2a, subsection 2 of the AVI Processing Act. Section 2.2.7 deals with subsection 3 of that section.

2.2.2 Energy production establishments that use renewable energy to produce energy, and offshore wind farms and the related water resources management projects

The detailed rationale for section 2a, subsection 2, paragraph 1 of the AVI Processing Act (HE 128/2022 vp p. 20) states that renewable energy refers to wind and solar energy (solar heating and solar electricity), geothermal energy, ambient energy, tidal and wave energy and other ocean energy, hydropower and biomass, as well as gas from landfills and wastewater treatment plants and biogas from non-fossil sources. A renewable energy production establishment, on the other hand, refers to an energy production plant that produces fully or partially renewable energy.

The Act on the Permit Procedure for Renewable Energy Production Plants (Laki uusiutuvan energian tuotantolaitosten lupamenettelystä 1145/2020, 'RED II Act') also deals with the permit matters of such projects, as stated in government proposal HE 128/2022 vp. The parliamentary documents of the RED II Act (Government proposal to Parliament for an act on permit procedures for renewable energy production plants and certain other administrative procedures HE 187/2020 vp) state that geothermal energy refers to energy stored under the soil in the form of heat. Ambient energy refers to naturally occurring thermal energy and energy accumulated in the environment with constrained boundaries, which can be stored in the ambient air, excluding in exhaust air, or in surface or sewage water. Biomass refers to the biodegradable parts of products, waste and remains of biological origin, including substances of plant and animal origin, originating in agriculture, forestry and related lines of production, as well as from fishing and hydroponics, and the biodegradable components in waste of biological origin, including industrial and municipal waste. Biogas refers to gaseous fuels produced from biomass. The definitions in the RED II Act can be used to assist in interpretation.

Offshore wind farms are explicitly mentioned in section 2a, subsection 2 of the AVI Processing Act. Water resources management projects related to offshore wind power and eligible for priority treatment may include, for example, transmission cables or other project measures, such as an artificial island needed for an offshore wind farm.

Pumped storage power plants are considered as hydroelectric power plants falling within the definition of renewable energy, and they are thus entitled to priority treatment. Section 2a, subsection 2 of the AVI Processing Act does not provide for restrictions on the origin of the electricity used in pumped storage power plants.

2.2.3 Industrial projects based on renewable energy or electrification that replace the use of fossil fuels or raw materials

In practice, the projects referred to in section 2a, subsection 2, paragraph 2 of the AVI Processing Act replace, for example, the heat used by industry with renewable energy or electricity, as stated in the rationale. Projects based on renewable energy in particular may require an amendment to the plant's environmental permit, in which case section 2a of the AVI Processing Act could also become applicable. Greenhouse gas emissions and other emissions generated by processes can be reduced, the adoption of new innovations promoted and the energy efficiency of processes improved with the electrification of industrial processes and utilisation of renewable energy or renewable raw materials. Section 2a, subsection 2 of the AVI Processing Act does not provide for restrictions on the origin of the electricity used in electrification projects.

2.2.4 Production and use of hydrogen, with the exception of hydrogen production from fossil fuels;

In the rationale for section 2a, subsection 2 of the AVI Processing Act (HE 128/2022 vp p. 20), paragraph 3 refers to the production of hydrogen from water with the electrolysis method. In principle, this paragraph refers to all ways of utilising hydrogen produced with electrolysis. Potential applications for the hydrogen include, for example, the replacement of hydrogen produced from fossil fuels, the further refinement of hydrogen into new products such as methane, ammonia or transport fuels, or converting an industrial process to use hydrogen, for example in the steel industry. Section 2a, subsection 2 of the AVI Processing Act does not provide for restrictions on the origin of the electricity used in hydrogen production.

2.2.5 Capture, utilisation and storage of carbon dioxide

The objective of the activities included in the project type referred to in section 2a, subsection 2, paragraph 4 of the AVI Processing Act is to combat climate change by reducing the amount of carbon dioxide emitted into the atmosphere.

The activities eligible for priority treatment under this paragraph may consist solely of carbon dioxide capture, utilisation or storage, or of any combination of these activities. Carbon dioxide can be captured, for example, from the flue gases of energy production or industry. Any capture of carbon dioxide for the purpose of utilisation or geological storage constitutes capture eligible for priority treatment within the meaning of this paragraph. The carbon dioxide can be utilised, for example, as a raw material in the manufacture of various chemicals, fuels and materials.

According to section 3 of the Act on the Capture and Storage of Carbon Dioxide (Laki hiilidioksidin talteenotamisesta ja varastoinnista 416/2012), carbon dioxide may not be stored geologically or in water columns on Finnish territory or in Finland's exclusive economic zone. However, the prohibition does not apply to the geological storage of carbon dioxide in quantities less than 100,000 tonnes if the purpose of such storage is research, development and experimentation for developing new products and methods.

Carbon dioxide may also be stored temporarily before transfer to permanent geological storage or utilisation, and an application for an interim storage permit may also be given priority treatment. Similarly, priority treatment may be given to projects related to the transport of carbon dioxide for interim storage or subsequent geological storage or utilisation.

2.2.6 Battery factories and the manufacture, recovery and reuse of battery materials.

On the basis of section 2a, subsection 2, paragraph 5 of the AVI Processing Act, priority may be given to a permit application filed for the battery industry, which aims to promote a circular battery material economy, including the production of battery materials from recycled raw materials. This project type does not include mining consisting of the extraction and enrichment of minerals from the soil. Mining products can also be used as raw materials for the production of battery materials, but mining itself does not produce battery materials, as stated in the detailed rationale (HE 128/2022 vp p. 21).

2.2.7 An application for a group of activities, if the need for the permit is essentially based on an activity referred to in section 2a, subsection 2

On the basis of section 2a, subsection 3 of the AVI Processing Act, priority treatment shall also be given to a permit application for a group of different activities, provided that the need for a permit is essentially based

on one of the activities referred to in subsection 2 of the said section. The Act does not specify the factors on which the assessment should be based. The green transition project does not have to be the main activity or the most costly activity or project of those requiring a permit.

When requesting priority treatment, the applicant should specify the paragraph according to which the project would fall within the scope of Section 2a of the AVI Processing Act and on what grounds in order to expedite processing.

From the point of view of the Environmental Protection Act, matters falling within the scope of section 2a, subsection 3 of the AVI Processing Act could include, for example, technical or operational connections under section 41 of the Act or the joint processing of an application under the Water Act and an application for an environmental permit, as referred to in section 47. From the point of view of the Water Act, such cases could include, for example, the joint consideration of permit applications in accordance with chapter 11, section 12 of the Act, or joint consideration under chapter 11, section 13. The provision is open-ended, so the Regional State Administrative Agency applies and interprets the provision on a case-by-case basis.

When the Act was enacted, the intention was for section 2a, subsection 3 of the AVI Processing Act to provide flexibility, and that priority treatment could also be given to permit applications for several different activities/projects.

2.3 Activities adhering to the ‘do no significant harm’ principle

2.3.1 Section 2a of the AVI Processing Act and the ‘do no significant harm’ principle

Section 2a, subsection 1 of the AVI Processing Act requires the project to adhere to the principle of ‘do no significant harm’. An assessment of compliance with the ‘do no significant harm’ principle (DNSH assessment, DNSH principle) ensures that the project will not do significant harm to any of the following six environmental objectives:

1. Climate change mitigation
2. Climate change adaptation
3. Sustainable use and protection of water and marine resources
4. Transition to a circular economy
5. Pollution prevention and control
6. Protection and restoration of biodiversity and ecosystems

The ‘do no significant harm’ principle has been adopted in the allocation of some public funding (see fact box 2 below on the background to the principle) by incorporating it into financial market legislation. However, the priority treatment provisions of the AVI Processing Act constitute their own entity, independent of the principle’s application to finance. Therefore, a streamlined version of the principle is implemented herein. In its report¹, the Committee on the Environment emphasised that compliance with the DNSH principle should not, in the context of the government proposal, be compared with the criteria for granting a permit. It is not a legal criterion for granting a permit, but a principle related solely to access to priority treatment, and can thus be given a much more streamlined assessment in this context.

In this context, the streamlined procedure means the following.

1. **In the priority treatment procedure, the DNSH study is carried out as a one-step procedure based on a general assessment.** With a general DNSH study, the applicant demonstrates adherence to the DNSH principle, and the Regional State Administrative Agency assesses the adequacy of the study. No threshold values for the significance of the harm (e.g. limit values for greenhouse gas emissions) are set for the DNSH study with regard to any environmental objectives in the priority treatment procedure. In funding applications, the DNSH assessment is usually carried out in two stages, that is, a general assessment and a detailed assessment.
2. The ‘do no significant harm’ principle is laid down in Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088. Section 2a of the AVI Processing Act refers to Article 17(1) of this EU Regulation. On the basis of section 2a, subsection 1 of the AVI Processing Act, **the life-cycle assessment referred to in Article 17(2) of the EU Regulation is not required when applying for priority treatment, so the DNSH study may be more limited in this respect** than a DNSH study already carried out for other purposes. The study may be more extensive than required for priority treatment, i.e. it may also include a life cycle assessment.
3. **When applying for priority treatment, the procedures used for financial instruments, such as special audits, do not apply.** For example, the DNSH assessment for EU Recovery and Resilience Facility (RRF) funding confirms that the project is not on the Commission’s exclusion list and requires the estimated greenhouse gas emissions for projects covered by the EU emissions trading system to be below defined benchmarks. The investment decision also contains conditions for adherence to the DNSH principle if the project has significant positive effects on the environment. These verifications

¹ YmVM 13/2022 vp – He 128/2022 vp p. 4.

are not applied in this priority treatment procedure provided for in section 2a of the AVI Processing Act.

Fact box 2. Background on the 'do no significant harm' principle

Background on the 'do no significant harm' principle

The purpose of the EU Taxonomy Regulation (EU) 2020/852² adopted in June 2020 is to establish a uniform set of criteria for determining which kinds of economic activities are considered environmentally sustainable. This aims, among other things, to channel investments towards sustainable activities. The idea is that, according to the EU taxonomy, a sustainable economic activity should make a significant contribution to at least one of the six EU environmental objectives **and should do no significant harm (DNSH)** to any of them. These six environmental objectives are:

1. Climate change mitigation
2. Climate change adaptation
3. Sustainable use and protection of water and marine resources
4. Transition to a circular economy
5. Pollution prevention and control
6. Protection and restoration of biodiversity and ecosystems

DNSH assessments are currently required for projects funded through the EU Recovery and Resilience Facility (RRF). Such projects include energy investment aid under Finland's Recovery and Resilience Plan and RRF projects funded by Business Finland. In addition, various assessments are required for projects financed by the European Regional Development Fund and the Just Transition Funds. Many private investors also require the recipients of their investments to carry out assessments compliant with DNSH criteria as part of their demonstration of compliance with the EU taxonomy.

2.3.2 Contents of the DNSH study

The Regional State Administrative Agency assesses the application of priority treatment based on the applicant's request for priority treatment and the DNSH study submitted by the applicant, in which the applicant answers assessment questions concerning each of the six environmental objectives and provides short justifications for the answers. The assessment questions have been drawn up to facilitate the preparation of the study and to ensure the quickest and most uniform application practice possible. The assessment questions are based on Article 17(1) of the EU Regulation referred to in section 2a, subsection 1 of the AVI Processing Act, with some further refinements for the priority treatment procedure³.

The assessment questions for each environmental objective are presented in Table 1 of these guidelines on page 16. The Regional State Administrative Agency assesses the sufficiency of the study submitted by the applicant. The applicant answers a main question and further questions concerning each objective and provides a short justification for their answers. The applicant provides a summary answer to each main question,

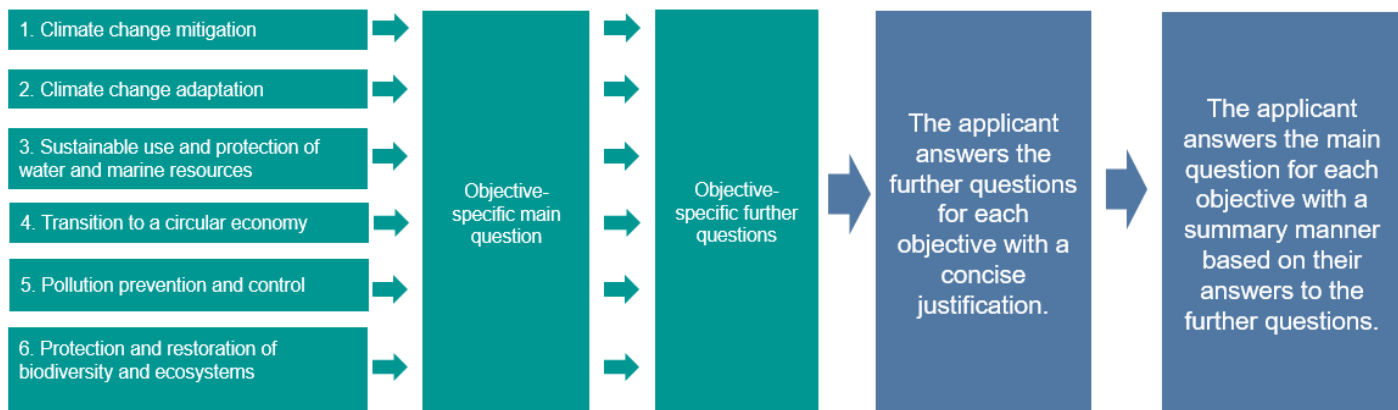
² Regulation (EU) 2020/852 of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.

³ The questions in Table 1 follow the Finnish Environment Institute SYKE's report "Implementation of the DNSH principle for measures in the Finnish recovery and resilience plan" with regard to the general DNSH assessment of investment projects. Link to the report <https://helda.helsinki.fi/handle/10138/339406>, see chapter 5, table 4 of the report.

based on the justifications for the answers to the further questions. The applicant may supplement the justifications given in the answers with appropriate information (examples of useful documents are given in column d of Table 1).

The applicant should take into account the nature of the measure and its direct environmental impact in their justifications to the assessment questions. Assessment of indirect environmental impacts is not required.

Figure 2. Summary of the DNSH study structure. The information requested for the study is shown in green and the justifications submitted by the applicant in blue.



The following general guidelines will be taken into account in the assessment of the study's adequacy.

- The applicant justifies their answers to each of the main questions and further questions presented in Table 1. **For access to priority treatment to be granted, the justifications must show why the activity will not have probable significant adverse effects on any of the six environmental objectives, taking into account the nature and direct effects of the activity.** For example, the justification may include a description of the means by which the harm will be minimised. As a rule, the DNSH study can be carried out on the basis of expert assessments, in which case it would not be necessary to carry out separate modelling or other studies solely for the purpose of the DNSH study. In their justifications, the applicant may refer to documents listed in column d of Table 1. The Regional State Administrative Agency assesses the adequacy of the study and consideration of the environmental objectives.
- The DNSH study focuses on detrimental effects. A positive impact assessment is not required, and effects under different environmental objectives will not compensate for each other. For example, very positive effects on the climate will not justify neglect of the other objectives. The compliance of projects with the green transition is dealt with in the list of projects in section 2a of the AVI Processing Act instead of in the DNSH study.
- If the applicant has a valid environmental permit or water permit and priority treatment is being sought for a minor change in the activity, the activity can, as a rule, be considered DNSH-compliant with regard to objectives 3 and 5. In this case, the applicant can refer to an existing environmental permit or water permit as a valid justification for these questions.
- A DNSH assessment already carried out for the activity/project in connection with a funding application can be used in whole or in part, depending on the similarity of the activities for which the permit

and the funding were applied. Funding decisions made for the project have no bearing on the consideration of priority treatment. Examples of the direct suitability of possible earlier DNSH assessments carried out in connection with funding applications to the priority treatment procedure are provided in Annex A to these guidelines.

In carrying out the study, the applicant can make use of previous administrative processes and the documents already prepared for them (for example, environmental permit application documents that have already been submitted). Every DNSH assessment is made on a case-by-case basis, however, and a list of relevant documents suitable for all cases cannot be made. However, the applicant may make use of the latest studies made for an already pending permit application, any previous permit documents or, for example, documents submitted for the EIA needs assessment. The Regional State Administrative Agency is not obliged to ask the applicant to supplement an incomplete request for priority treatment, but can decide not to grant priority treatment in such cases. **The request for priority treatment must be well-justified, clear and concise to be processed efficiently by the Regional State Administrative Agency.** General references to environmental permit application documents or other documents are not sufficient justifications for the DNSH study. Rather, the applicant must clearly refer to specific parts of the documents (e.g. chapter or page). Examples of useful materials are provided in Table 1.

Table 1. Environmental objectives (column a) and objective-specific main questions (column b) and further questions (column c). The applicant provides justified answers to both the main question and the further questions. The main question is answered with a summary based on the answers to the further questions. The justifications can refer to the documents and sources of information described in column d, for example.

a) Environmental objective	b) Main question concerning the environmental objective	c) Further questions concerning the environmental objective	d) Examples of potentially useful documents, guidelines and sources of information for the study
1) Climate change mitigation	Is the project likely to have significant adverse effects on climate change mitigation?	a) Will the project increase direct greenhouse gas emissions? b) Will the project degrade carbon sinks and/or carbon stocks? c) Will the activity contribute to the use of fossil fuels? d) Any other adverse effects?	Where possible, the study can make use of existing emission reports based on methods such as: LCA, GHG protocol or PEF (2013/179/EU). In addition to the project's direct greenhouse gas emissions, the justifications can include its indirect greenhouse gas emissions if they have already been assessed. No actual life cycle assessment is required.
2) Climate change adaptation	Is the project likely to have significant adverse effects on climate change adaptation?	a) Will the project increase the risk of flooding, drought or exposure to extreme weather events? b) Any other adverse effects? c) Has the project made provision for extreme weather events (in material respects)?	The study can make use of a climate risks assessment (a study of the physical effects of the expected future climate on the activity during its life cycle) or a study of the adaptation solutions to be implemented.
3) Sustainable use and protection of water and marine resources	Is the project likely to have significant adverse effects on the sustainable use and protection	a) Could the project cause change to water quality, aquatic life, bottom conditions, currents, flow, water level, or discharges	If the permit is being sought for activities which already have a valid environmental permit for some aspects and/or for which an environmental

a) Environmental objective	b) Main question concerning the environmental objective	c) Further questions concerning the environmental objective	d) Examples of potentially useful documents, guidelines and sources of information for the study
	of water and marine resources?	<p>to water bodies that could cause deterioration of surface or groundwater status (e.g. increase nutrient, metal or solids loads, degrade fish habitat or spread invasive species)?</p> <p>b) Will the project increase thermal pollution?</p> <p>c) Any other adverse effects?</p>	<p>impact assessment (EIA) has already been carried out, these application materials can be utilised in the study.</p> <p>If the applicant has a valid environmental permit and priority treatment is being sought, e.g., for a minor change in the activity, the activity can, as a rule, be considered DNSH-compliant with regard to this objective.</p>
4) Circular economy, including recycling and the prevention of waste generation	Is the project likely to have significant adverse effects on the transition to a circular economy?	<p>a) Will the project increase the use of natural resources?</p> <p>b) Will the project make it more difficult to reuse products or materials or shorten the life of the products?</p> <p>c) Will the project make it more difficult to recycle materials?</p> <p>d) Will the project increase the disposal or incineration of waste (e.g. does the project increase the harmfulness of the waste generated)?</p> <p>e) Any other adverse effects?</p>	<p>Depending on the activity requiring a permit, the study can make use of, for example, documents and reports from the EOW procedure.</p> <p>If the applicant considers that adverse effects may occur, a more detailed study must be carried out, describing how the project has taken into account:</p> <ul style="list-style-type: none"> • the use of non-renewable natural resources in production • the potential reuse of the product / production waste or the recyclability of the material • the durability/lifespan of the product • the amount of landfill waste generated by production • the effect of harmful substances contained in the product/waste on reuse/recycling
5) Pollution prevention and control	Is the project likely to lead to a significant degradation of the environment (soil, water, air quality) through increase in emissions or changes in land use?	<p>a) Will the project increase the chemicalisation of the environment?</p> <p>b) Will the project result in significant emissions of harmful or hazardous substances?</p> <p>c) Could environmental risks increase?</p> <p>d) Any other adverse effects?</p>	<p>If the permit is being sought for activities which already have a valid environmental permit for some aspects and/or for which an environmental impact assessment (EIA) has already been carried out, these application materials can be utilised in the study.</p> <p>If the applicant has a valid environmental permit and priority treatment is being sought, e.g., for a minor supplement to the activity, the activity can, as a rule, be considered DNSH-compliant with regard to this objective.</p>

a) Environmental objective	b) Main question concerning the environmental objective	c) Further questions concerning the environmental objective	d) Examples of potentially useful documents, guidelines and sources of information for the study
6) Protection and restoration of biodiversity and ecosystems	Is the project likely to significantly undermine biodiversity or significantly hamper the protection and/or restoration of ecosystems?	a) Will the project degrade or fragment a protected or threatened natural habitat? b) Will the project reduce the size of a protected or endangered habitat type or the area of occurrence of the habitat? c) Will the project degrade or fragment the habitat of a protected or endangered species or degrade its quality? d) Will the project reduce the population size of a protected or endangered species or the range of the species? e) Will the project impede the protection and restoration of ecosystems? f) Any other adverse biodiversity impact?	If the permit is being sought for activities which already have a valid environmental permit for some aspects and/or for which an environmental impact assessment (EIA) has already been carried out, these application materials can be utilised in the study.

3. Centres for Economic Development, Transport and the Environment in promoting the green transition

3.1 General information on green transition projects from the perspective of the Centres for Economic Development, Transport and the Environment

The statutory duties of the Centres for Economic Development, Transport and the Environment in the Environment and Natural Resources area of responsibility have not been changed by the adoption of section 2a of the AVI Processing Act. The new statutory priority treatment only applies directly to the processing of permits by Regional State Administrative Agencies.

However, the Environment and Natural Resources departments of the Centres for Economic Development, Transport and the Environment have several official duties related to green transition projects that are central to the progress of the projects.

These include, for example, the official duties provided for in the Act on the Environmental Impact Assessment Procedure (252/2017) with regard to the environmental impact assessment procedure (EIA procedure), which include the EIA needs assessment that may be required in the early stages of the activity. The duties of ELY Centres also include deciding on derogation permits and conducting Natura assessments under the Nature Conservation Act (1096/1996)⁴, along with other nature surveys.

⁴ Link to the parliamentary documents on the comprehensive reform of the Nature Conservation Act (HE 76/2022 vp) https://www.eduskunta.fi/FI/vaski/KasittelytiedotValtiopaivaasia/Sivut/HE_76+2022.aspx

The ELY Centres issue statements on permit applications under the Environmental Protection Act and the Water Act to the Regional State Administrative Agency. The ELY Centres act as the supervisory authority for environmental permit decisions and permits under the Water Act in their areas. The tasks of the ELY Centre include assessing whether an activity requires a permit and whether valid permit decisions require amendment or revision. Permit decisions often assign ELY Centres with enforcement duties related to permit obligations, such as approving plans and studies of various levels which may be required for starting the activity. The ELY Centres participate in negotiations and discussions with the Regional State Administrative Agency, operators and stakeholders.

The ELY Centres are also responsible for giving general guidance and advice on environmental issues and the monitoring of the public interest in environmental protection. The Customer Service Centre for Environmental Affairs (Environmental CS)⁵ and the Renewable Energy Permit Advisory Service also provide guidance to permit applicants.

3.2 Additional resources allocated to ELY Centres

Additional resources have been and will be allocated to ELY Centres to promote the green transition, but no provision is made for giving these projects a special priority in the official duties of the ELY Centres. The intention is that, with the help of additional resources, the ELY Centres will seek to prioritise projects that have been granted priority treatment, e.g. in the EIA procedure and during the statement phase of the permit application being processed by the Regional State Administrative Agency. It is also the intention for the Regional State Administrative Agencies and ELY Centres to work together to advance the processing of these projects in particular. The additional resources should also ensure that the processing of other projects is not delayed.

3.3 Streamlining at the ELY Centre

Where applicable, ELY Centres will use section 2.2. of these guidelines for identifying the projects referred to in section 2a of the AVI Processing Act. The identification of projects possibly eligible for priority treatment and the environmental procedures required by such projects is essential to ensure the adequate flow of information within the ELY Centre. Needs for supplementary expertise must also be identified. The ELY Centre may become aware of a project in several ways:

- 1) through the Environmental CS / Renewable Energy Permit Advisory Service / Switchboard
- 2) through a sector specialist, e.g. in connection with land use planning negotiations
- 3) through the supervisory authority

It is essential that information about a new potential green transition project reaches the supervisory authority and the EIA contact authority. This will help to ensure that proactive counselling is initiated at an adequate level. This, too, is intended to contribute to the smooth running of the permit procedures for these projects and expedite them. Information about possible contacts with the Environmental CS and Renewable Energy Permit Advisory Service⁶ should also be conveyed to the supervisory authority at the ELY Centre.

The ELY Centre should identify the sector experts needed for providing advice and guidance for the project (for example, the Transport and Infrastructure department in addition to the Environment department, as well as centralised duties, e.g. Water Supply) and it would be a good idea to draw up a common operating

⁵ <https://www.ely-keskus.fi/ymparistoasiakaspalvelu>

⁶ <https://www.ely-keskus.fi/web/uusiutuvan-energian-lupaneuvonta>

model for identification and, if necessary, putting together a team. A responsible processor should be appointed for the project at the ELY Centre (e.g. an EIA specialist or supervisor in charge of the project). Projects and the environmental procedures required by them will be identified, and project progress monitored, in accordance with the agreed-upon indicators. The person in charge of the project would be responsible for monitoring project progress. The processor in charge of the project should inform the sector experts as early as possible. ELY Centres may also have other internal procedures, for example for large projects. For all projects, the flow of information within the ELY Centres includes keeping the required sector experts up to date.

The green transition projects referred to in section 2a, subsections 2 and 3 of the AVI Processing Act usually fall within the scope of the Act on Environmental Impact Assessment Procedure (252/2017). In such projects, the ELY Centre acts as the contact authority for the environmental impact assessment procedure.

Additional resources will be allocated to the ELY Centres for promoting green transition projects in their sectors, as explained in section 3.2 above. With these additional resources, the ELY Centres will be able to hire more experts so that, for example, the EIA procedures of green transition projects can be expedited without delaying those of other projects.

Discussions with the project manager are a key source of information for ELY Centres. In these discussions, the ELY Centre should also raise issues concerning the priority treatment, procedure and study based on section 2a of the AVI Processing Act and refer to legislation and guidelines. If the project manager intends to request priority treatment for the permit application of their project at the Regional State Administrative Agency, unofficial and preliminary information can also be passed on to the AVI as described in section 3.4 below. For example, if the project manager says that the project will proceed to permit processing soon after the EIA procedure, the ELY Centre may, if resources allow, expedite the EIA procedure for the project in question.

The ELY Centre also has official duties after the permit procedure, the aspects of which are not discussed in any detail in these guidelines.

3.4 Exchange of information between ELY Centres and Regional State Administrative Agencies

The Environment and Natural Resources departments of the ELY Centres and the Environmental Permit departments of the Regional State Administrative Agencies have well-established methods of cooperation and communication. These will also be used for the general exchange of information between the authorities on green transition projects.

Four ELY Centres have coordination duties in their respective AVI areas. It is the coordinating ELY Centre's duty to ensure sufficient communication and the exchange of information between the agencies in the area. The ELY Centre invites the Regional State Administrative Agency to participate in the preliminary negotiations on the environmental impact assessment procedure. Correspondingly, the Regional State Administrative Agency invites the ELY Centre to participate in the preliminary negotiations on the permit matter. The application of this legislation may also be discussed in the preliminary negotiations.

ANNEX A. Use of a previously completed DNSH study when requesting priority treatment in the procedure under section 2a of the AVI Processing Act

From the perspective of the permit applicant, we can make a distinction between the following situations in relation to an existing DNSH study, such as a DNSH study prepared for RRF funding or other purposes, and an activity/project referred to in the permit application, as well as the utilisation of the study and permit documents when requesting priority treatment.

DNSH study prepared for RRF funding and its relationship to the permit application	Adherence to the DNSH principle	The applicant provides the information when requesting priority treatment, for example as follows:
1. The existing DNSH study for obtaining funding has been carried out <u>for the same</u> activity/project for which the permit is being sought.	The study can be used as the study provided for in this Act on as a demonstration of the project's adherence to the DNSH principle.	In order to expedite the processing of the request for priority treatment and for the sake of clarity, the applicant may state this fact when requesting priority treatment. The applicant completes Table 1 in the guidelines. The applicant encloses the DNSH study drawn up for funding with the request.
2. The existing DNSH study for obtaining funding has been carried out <u>for a more extensive</u> activity/project than that for which the permit is being sought.	The study can be used as the study provided for in this Act on as a demonstration of adherence to the DNSH principle.	In order to expedite processing and for the sake of clarity, the applicant may state this fact when requesting priority treatment and indicate the sections of the study that relate to the activity/project for which the permit is being sought. The applicant completes Table 1 in the guidelines. The applicant encloses the DNSH study drawn up for funding with the request.
3. The existing DNSH study for obtaining funding has been carried out <u>for a more limited</u> activity/project than that for which the permit is being sought.	<p>The study can be used as part of the DNSH study required by this Act for the project.</p> <p>The applicant supplements the DNSH study insofar as the previous study does not cover the activities/project or the part of them referred to in the permit application.</p> <p>When supplementing the study, the applicant can refer to the permit documents, for example.</p>	In order to expedite processing and for the sake of clarity, the applicant may state this fact when requesting priority treatment and indicate the sections of the study that relate to the activity/project for which the permit is being sought. The applicant completes Table 1 in the guidelines and indicates which documents, if any, will be used to verify the remainder of the activity/project. The applicant encloses the supplemented DNSH study and any other documents with the request.
4. No DNSH study has been prepared for obtaining funding for the activity/project for which the permit is being sought.	<p>The applicant prepares or commissions the study.</p> <p>The applicant may refer to specific sections or annexes of the permit document.</p>	The applicant completes Table 1 in the guidelines and indicates which documents will be used to verify the sections of the Table in question. The applicant encloses the DNSH study and any other documents with the request.

ANNEX B. Useful links to materials and training

Parliamentary documents for section 2a of the AVI Processing Act

Government proposal to Parliament for legislation on temporary priority treatment for certain green transition projects in the permit processing of Regional State Administrative Agencies in 2023–2026 and in the administrative courts in 2023–2028 (HE 128/2022 vp, in Finnish) https://www.eduskunta.fi/FI/vaski/KasitelytiedotValtiopaivaasia/Sivut/HE_128+2022.aspx

Financial materials related to the ‘do no significant harm’ principle

Implementation of the DNSH principle for measures in the Finnish recovery and resilience plan. Authors: Forsius, Kaj; Silvo, Kimmo; Jouttijärvi, Timo; Marttunen, Mika; Mustajoki, Jyri; Karppinen, Tiina K. M.; Kostamo, Kirsi; Salo, Pälvi; Romppanen, Seita; Kautto, Petrus; Toivanen, Riina. Finnish Environment Institute 2022. <https://helda.helsinki.fi/handle/10138/339406>

State Treasury funding guidelines and training: Instructions on adherence to the DNSH principle are available in Finnish on the State Treasury's RRP service website under Suomen elpymis-ja-palautumissuunnitelman toimeenpano ja seuranta - Tuki-ja-ohjemateriaalit.

Guidelines: <https://vkazprodwordpressstacc01.blob.core.windows.net/wordpress/2022/04/ohje-ei-merkittavaa-haittaa-periaate.pdf>

Training: <https://www.valtiokonttori.fi/uutinen/miten-eun-elpymis-ja-palautumistukivalineen-rahoittamiahankkeita-arvioidaan-ja-raportoidaan/>

Commission Notice Technical guidance on the application of ‘do no significant harm’ under the Recovery and Resilience Facility Regulation 2021/C 58/01, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021XC0218%2801%29>