



Naturvern-
forbundet



NORSKE
LAKSEELVER

Oslo, 14 April 2026

Feedback regarding the review of the EU Taxonomy Climate Delegated Act

This input is sent on behalf of the following associations in Norway, representing more than one million memberships:

- The Norwegian Biodiversity Network (Sabima)
- The Norwegian Outdoor Council (Norsk Friluftsliv)
- The Norwegian Association of Hunters and Anglers (NJFF)
- WWF Norway (WWF Verdens naturfond)
- The Norwegian Trekking Association (DNT)
- The Norwegian Society for the Conservation of Nature (Naturvernforbundet)
- Norwegian Salmon Rivers (Norske Lakseelver)

Our input mainly concerns hydropower, and thus the proposed amendments of the EU Taxonomy Climate Delegated Act, Section 4.5 Electricity generation from hydropower, subsection 'Technical screening criteria', point 3, regarding Sustainable use and protection of water and marine resources. For reference, the current and proposed texts are included at the end of this document (Annex 1).

Key messages

- We strongly support the Commission in that Taxonomy compliance requires Good Ecological Status or Good Ecological Potential.
- The EU Taxonomy was created at the request of financial markets to prevent greenwashing and guide capital toward genuinely sustainable activities.
- Simplification must not blur the distinction between “renewable” and “sustainable”, especially for hydropower, which is well-documented to cause severe ecological damage if poorly regulated.
- The delegated act and its guidance must clarify that hydropower is not automatically sustainable by virtue of being low-carbon. Hydropower almost always alters flows, continuity, morphology, or sediment transport and thus affects the ecological status in various ways - even with mitigation measures in place, and is a major driver of biodiversity loss in European freshwater ecosystems.
- *Unclear rules* are not the same as *unpopular rules*. Weakening the criteria for Doing No Significant Harm risks undermining confidence in the entire sustainable finance framework.
- We are concerned that the proposal replaces highly specific, operational criteria with broader, principle-based language, thus undermining clarity.

Overall position

We agree that the Water Framework Directive (WFD) is the central legal anchor, and that good ecological status (GES) or good ecological potential (GEP) of affected water bodies should be the Taxonomy benchmark. We therefore support the important clarification in point 3.1 of the proposal.

We also support the essence of point 3.2, concerning the need for assessments for new facilities, and point 3.3, which requires that both new and existing facilities be subject to authorisation or permits linked to conditions ensuring the achievement of GES/GEP.

We are however concerned that the proposed revision weakens a few safeguards compared to the current Delegated Act. We therefore wish to emphasize that Taxonomy credibility depends on strict Do No Significant Harm (DNSH) criteria, particularly for hydropower in already heavily regulated river systems.

The EU Taxonomy must remain a legally robust framework that distinguishes genuinely sustainable hydropower from projects that merely produce renewable electricity. Simplification that weakens requirements for ecological status, connectivity and ecological flows would undermine both investor trust and environmental outcomes.

The EU Taxonomy is a credibility instrument, not an energy policy

The purpose of the Taxonomy Regulation is to establish a reliable classification system for environmentally sustainable economic activities for financial purposes, while the WFD regulates water management. We agree that the criteria *«should also be easy to use, by setting out clear requirements building upon the relevant requirements of existing Union law»*, as stated in point 17 of the Review document. But the suggested amendment proposal point 24 reads:

“(24) Given that [the Water Framework Directive] provides robust safeguards for hydropower activities, the ‘Do No Significant Harm’ criteria for sustainable use and protection of water and marine resources for energy generation from hydropower should be simplified and aligned with those safeguards.”

It is important that the proposal explicitly makes "good status or good ecological potential of water bodies" the threshold for DNSH. In addition, it is our experience that the EU Taxonomy is strengthened by concrete DNSH criteria, not merely outcome-based objectives.

In dialogue with the hydropower sector we have often met the position that all decisions adopted under the WFD would automatically be considered environmentally sustainable - including those based on exemptions or derogations.

Another problematic reasoning is found in this section of the Norwegian guidelines on WFD Article 4(7)¹ (implemented through section 12 of the Norwegian Water Regulation). It is stated that neither the WFD nor the Norwegian Water Regulation provides a definition of sustainability and suggests that the sum of the Norwegian regulations can be seen as an expression of national assessments of what is sustainable for the individual type of activity. It then continues (our translation): *“If an activity is carried out in accordance with a permit granted by a public*

¹ Chapter 3.4, *«Veiledning til bruk av vannforskriften § 12 - med presisering»*, <https://www.vannportalen.no/sharepoint/downloaditem?id=01FM3LD2TRDUKDH7HEGBHKZPUTZNOOSL>, from here: <https://www.vannportalen.no/veiledere/veileder-2021-veileder-til-vannforskriften--12/>

authority, the requirement for sustainability is considered fulfilled.”

The paragraph finishes by concluding that for authorities concerned, this means that the WFD Article 4(7) does not introduce any additional requirements.

The revision must make sure there is no opening for such interpretations of environmental sustainability in the EU Taxonomy.

Welcome clarifications and improved readability - but concerned some clarity is lost

There is room for improving readability and clarifications in the EU Taxonomy, not least in how it is presented, but we are concerned some clarity may in fact be lost when replaced with broader, principle-based language. For instance, the current Delegated Act explicitly requires that impact assessments for new hydropower must include cumulative impacts at river basin level. This is not just implicit, but an explicit, binding requirement. This requirement is removed in the proposal, representing a substantial weakening of ecological safeguards.

While implementation of the WFD is the responsibility of national authorities, it is through the EU Taxonomy that proper implementation becomes relevant for companies and investors. It is therefore important that the EU Taxonomy is more explicit than simply making reference to what is the law. This is for instance the case regarding Article 4(7), which needs to be more than a procedural checkbox. It is important that the EU Taxonomy upholds the need for:

- Assessment of cumulative impacts at river basin level
- Mandatory alternatives assessment
- Explicit overriding public interest test
- Requirement to prove no better environmental options exist

Risks associated with discretionary language

We are also concerned about the use of certain terms that open for interpretation. Such terms, in our experience, do not serve “clarity”.

- “where relevant”

We are concerned about the usage of the phrase “*where relevant*” in point 2 and 3. While the term also appears in the current Delegated Act, it is used in a more direct or operational context. In the proposed text, however, this formulation risks introducing broader discretion, which may make compliance significantly more difficult to assess and verify for third parties, including auditors and verification bodies. This concern is reinforced by the practice in Norway, where decisions on whether and to what extent mitigation measures should be applied to old hydropower have largely been political rather than based on consistent, objective environmental criteria. In Norway good ecological potential has often been considered as achieved without mitigation measures. In such a context, increased reliance on discretionary concepts of relevance risks weakening the practical enforceability of the DNSH criteria. It therefore needs to be clear that all technically feasible and ecologically relevant mitigation measures are implemented.

- “avoid”

Similarly, the use of “avoid” in point 2, in relation to increased fragmentation, is problematic. In legal terms, “avoid” is difficult to verify and enforce and does not provide clarity about minimum requirements or measurable outcomes.

Existing facilities must meet modern standards

The draft's equal treatment of "existing and new facilities" is positive only if mitigation requirements are equally strong. Most hydropower installations in Norway have never been subject to modern environmental evaluations or impact assessments. They were neither designed nor adapted in line with best available techniques, current environmental standards, or the obligations stemming from the WFD.

In a Norwegian context, old and new are treated quite differently and the position of the Norwegian government is that old and new hydropower do not need to meet the same environmental standards, as evident from the reply² from the Norwegian Minister of Energy regarding a proposal from the Norwegian parliament's Energy and Environment Committee concerning a proposed license revision:

"In comparison with ordinary licensing cases or cases with updating expired licenses, the authorities do not have the same possibilities to use 'the strict environmental requirements that apply to new hydropower development today' in cases of revision of licenses."

This makes it essential that DNSH criteria clearly require:

- effective two-way fish migration,
- ecological flows and
- the protection and restoration of habitats

These measures must be core requirements, in a way that is not to be misunderstood as illustrative examples.

This is critical as loss of connectivity and inadequate flow regimes are among the most severe and well-documented impacts of hydropower on biodiversity, including salmon, trout, freshwater pearl mussels, and riparian habitats.

It is important to make it clear that cost alone cannot justify non-implementation, and that best available ecological techniques are required. Licences, especially old and everlasting ones, must be updated in line with evolving scientific knowledge and technological possibilities. Ecological potential today is fundamentally different from what it was even 30 years ago.

Old facilities with various exemptions to the WFD, legal – but sustainable?

Most Norwegian hydropower facilities were built 50–150 years ago, before environmental assessments existed and long before modern mitigation techniques were available. The understanding of hydropower's negative impact on nature, and knowledge and technology on how to mitigate that impact, has developed vastly since the bulk of Norwegian hydropower was built. This is important in reference to the points under "Cross-cutting supporting evidence" in Annex II of the Technical guidance on the application of the DNSH-criteria³ as well as in setting the ecological potential for heavily modified water bodies (HMWBs). In Norway, exemptions

² Reply from the Norwegian Minister of Energy regarding a proposal from the Norwegian Parliament's Energy and Environment Committee concerning a proposed license revision:

<https://www.stortinget.no/globalassets/pdf/innstillinger/stortinget/2022-2023/inns-202223-150s-vedlegg.pdf>

³ Technical guidance on the application of 'Do No Significant Harm' under the Recovery and Resilience Facility Regulation, (C/2023/111):

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC00111>

under the WFD are used extensively, particularly for older hydropower. Our position is that facilities built more than 50 (sometimes 150) years ago cannot be considered to have reached their ecological potential, as no environmental assessments were conducted at the time and few, if any, measures to reduce their impact on nature have been implemented since.

“Unclear” or merely “unpopular” criteria?

We emphasize that in the work of revising the EU Taxonomy's DNSH criteria, one must first distinguish between on one hand unclear or administratively burdensome procedures, and on the other what is claimed to be unclear environmental requirements. Next, one needs to distinguish between unclear and unpopular (politically or economically) environmental criteria.

The Commission has stated that companies face difficulties documenting DNSH compliance. In our experience, the explanation as to why it may be difficult to document and prove compliance, might be that the activity does in fact not comply with the requirements. For example, where no permit exists, or permits are outdated and do not include modern environmental requirements or WFD objectives. This situation applies to a significant share of Norwegian hydropower.

The Commission's FAQs (points 56–58) and technical guidance⁴ clearly state that hydropower plants must:

- hold a licence, and
- that this licence must be linked to environmental objectives aligned with modern WFD standards.

Claims to the contrary reflect a desire to lower environmental ambition, not a lack of clarity.

Lessons from the Norwegian context

The Norwegian government's interpretation of sustainability under the WFD, explicitly stating that activities authorised by permit are considered sustainable, illustrates why national implementation of the WFD must be clearly separated from the EU Taxonomy's role as a financial credibility instrument.

This interpretation has already contributed to shortcomings in Norway's implementation of Articles 11(3)(e) and 11(5) WFD, as identified by the EFTA Surveillance Authority⁵, including the lack of periodic permit reviews for hydropower and delayed corrective measures.

These long-standing issues demonstrate why the EU Taxonomy must not simply rely on national permitting practice when determining sustainability.

⁴ DRAFT COMMISSION NOTICE on the interpretation and implementation of certain legal provisions of the EU Taxonomy Climate Delegated Act establishing technical screening criteria for economic activities that contribute substantially to climate change mitigation or climate change adaptation and do no significant harm to other environmental objective, 19 Dec 2022:

<https://ec.europa.eu/finance/docs/law/221219-draft-commission-notice-eu-taxonomyclimate.Pdf>

These points are also included in this set of FAQs: <https://ec.europa.eu/sustainable-finance-taxonomy/faq>

⁵ Letter 6 May 2024 from ESA to the Norwegian government, regarding ESA's "Own initiative case concerning environmental controls under the Water Framework Directive":

<https://www.vannportalen.no/sharepoint/downloaditem?id=01FM3LD2VJHXLVQWM26JFKHSTHNR6YXWC3>

Concluding remarks

We support the Commission's objective of maintaining robust technical screening criteria that apply regardless of the age or size of hydropower facilities. We note that it is unclear which clarifications provided in the Commission's FAQs will remain applicable under the revised delegated act.

If the DNSH criteria for hydropower are to be amended, they should be strengthened in clarity, particularly with respect to:

- achievement of GES/GEP,
- licensing reflecting modern environmental standards, and
- measurable, enforceable technical criteria (flows, connectivity, ecological status).

Replacing such criteria with high-level principles or optional best practices risks turning DNSH into a tick-box exercise without delivering real ecological outcomes. Public disclosure of monitoring data should therefore be required.

Best regards,

Einar Wilhelmsen, Secretary General, The Norwegian Biodiversity Network (Sabima)

Hans-Erik Lerkelund, Head of conservation, The Norwegian Association of Outdoor Organisations (Norsk Friluftsliv)

Øyvind Fjeldseth, Chief Advisor, The Norwegian Association of Hunters and Anglers (NJFF)

Sverre Lundemo, Senior Advisor, WWF Norway (WWF Verdens naturfond)

Siren S. Juliussen, Senior Advisor, The Norwegian Trekking Association (DNT)

Rebecca Biong, Biodiversity Advisor, The Norwegian Society for the Conservation of Nature (Naturvernforbundet)

Torfinn Evensen, Secretary General, Norwegian Salmon Rivers (Norske Lakseelver)

Annex 1 - The suggested changes in Point 3, regarding electricity generation from hydropower, in the Climate Delegated Act, Section 4.5, Point 3 in the Technical Screening Criteria:

This is the proposed amendment/new text:

(3) Sustainable use and protection of water and marine resources

1. The activity complies with the achievement of good status or good ecological potential of water bodies in the sense of Directive 2000/60/EC.

2. For new electricity generation facilities, this implies demonstration that a prior assessment has been carried out and that permit has been granted further to justification in accordance with Article 4(7) of the Directive 2000/60/EC; where relevant. This implies that continuity restoration is carried out within the same river basin district to compensate for the disruption and avoid an increased fragmentation of water bodies in that district. This compensation starts prior to the execution of the project. The facility does not permanently compromise the achievement of good status/potential in any of the water bodies in the same river basin district.

3. For both existing and new electricity generation facilities, the activity is subject to, and controlled through, an authorisation or permit which sets out how to make it compliant with the achievement of the environmental objectives of good status or ecological potential in the sense of Directive 2000/60/EC of the specific water body it relates to.

The authorisation or permit requires the implementation of all technically feasible and ecologically relevant mitigation measures to reduce adverse impacts on water bodies as well as on protected habitats and species directly dependent on water.

Where relevant and depending on the ecosystems naturally present in the affected water bodies, this includes measures to:

- (a) ensure downstream and upstream fish migration;
- (b) ensure measures to achieve ecological flow or good ecological potential flow;
- (c) protect or enhance habitats.

The above text is proposed to replace the following text:

(3) Sustainable use and protection of water and marine resources

1. The activity complies with the provisions of Directive 2000/60/EC, in particular with all the requirements laid down in Article 4 of the Directive.

2. For operation of existing hydropower plants, including refurbishment activities to enhance renewable energy or energy storage potential, the activity complies with the following criteria:

2.1. In accordance with Directive 2000/60/EC and in particular Articles 4 and 11 of that Directive, all technically feasible and ecologically relevant mitigation measures have been implemented to

reduce adverse impacts on water as well as on protected habitats and species directly dependent on water.

2.2. Measures include, where relevant and depending on the ecosystems naturally present in the affected water bodies:

(a) measures to ensure downstream and upstream fish migration (such as fish friendly turbines, fish guidance structures, state-of-the-art fully functional fish passes, measures to stop or minimise operation and discharges during migration or spawning);

(b) measures to ensure minimum ecological flow (including mitigation of rapid, short-term variations in flow or hydro-peaking operations) and sediment flow;

(c) measures to protect or enhance habitats.

2.3. The effectiveness of those measures is monitored in the context of the authorisation or permit setting out the conditions aimed at achieving good status or potential of the affected water body.

3. For construction of new hydropower plants, the activity complies with the following criteria:

3.1. In accordance with Article 4 of Directive 2000/60/EC and in particular paragraph 7 of that Article, prior to construction, an impact assessment of the project is carried out to assess all its potential impacts on the status of water bodies within the same river basin and on protected habitats and species directly dependent on water, considering in particular migration corridors, free-flowing rivers or ecosystems close to undisturbed conditions.

The assessment is based on recent, comprehensive and accurate data, including monitoring data on biological quality elements that are specifically sensitive to hydromorphological alterations, and on the expected status of the water body as a result of the new activities, as compared to its current one.

It assesses in particular the cumulated impacts of this new project with other existing or planned infrastructure in the river basin.

3.2. On the basis of that impact assessment, it has been established that the plant is conceived, by design and location and by mitigation measures, so that it complies with one of the following requirements:

(a) the plant does not entail any deterioration nor compromises the achievement of good status or potential of the specific water body it relates to;

(b) where the plant risks to deteriorate or compromise the achievement of good status/potential of the specific water body it relates to, such deterioration is not significant, and is justified by a detailed cost-benefit assessment demonstrating both of the following:

(i) the reasons of overriding public interest or the fact that benefits expected from the planned hydropower plant outweigh the costs from deteriorating the status of water that are accruing to the environment and to society;

(ii) the fact that the overriding public interest or the benefits expected from the plant cannot, for reasons of technical feasibility or disproportionate cost, be achieved by alternative means that

would lead to a better environmental outcome (such as refurbishing of existing hydropower plants or use of technologies not disrupting river continuity).

3.3. All technically feasible and ecologically relevant mitigation measures are implemented to reduce adverse impacts on water as well as on protected habitats and species directly dependent on water.

Mitigation measures include, where relevant and depending on the ecosystems naturally present in the affected water bodies:

(a) measures to ensure downstream and upstream fish migration (such as fish friendly turbines, fish guidance structures, state-of the-art fully functional fish passes, measures to stop or minimise operation and discharges during migration or spawning);

(b) measures to ensure minimum ecological flow (including mitigation of rapid, short-term variations in flow or hydro-peaking operations) and sediment flow;

(c) measures to protect or enhance habitats.

The effectiveness of those measures is monitored in the context of the authorisation or permit setting out the conditions aimed at achieving good status or potential of the affected water body.

3.4. The plant does not permanently compromise the achievement of good status/potential in any of the water bodies in the same river basin district.

3.5. In addition to the mitigation measures referred to above, and where relevant, compensatory measures are implemented to ensure that the project does not increase the fragmentation of water bodies in the same river basin district. This is achieved by restoring continuity within the same river basin district to an extent that compensates the disruption of continuity, which the planned hydropower plant may cause. Compensation starts prior to the execution of the project.