



# How to practice the WFD Art. 4.5

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# Scope

- The Weser ruling - quick overview
- Example: Application for emission permits
- How should we use art. 4.5?



# Weser ruling

- The European Court of Justice, 2015
- The WFD applies to individual projects
- Required to refuse authorisation for an individual project where it may cause deterioration of a water body or failure to achieve good status



# Example: Applications for emission permits

- Applications for emission permits from new industry or modifications/expansions in existing enterprises
- Increased discharge from point sources of substances which causes the moderate condition in the water body
- Projects may lead to a deterioration of the status of a body of surface water or jeopardize the attainment of good surface water status



Photo: Imaginary map of an industry area in a Norwegian fjord.

# Example: Application for emission permits



## Arguments supporting permits for new activity or expansion of existing activity

- Survive in the competitive international business arena
- Increased demand for the product
- Resilient, well-developed infrastructure
- Industry network and cluster
- Circular economy, reuse of resources, best environmental option



Photo: Kim Abel, Naturarkivet

# Example: Application for emission permits



## Exemptions

- Art. 4(7): No new or increased inputs of pollutants from point or diffuse sources if the water body status is below high. No exemptions for chemical status.
- Art. 4(4) Postponed deadline: Not applicable
- Art. 4(5) Less stringent environmental objectives: If all feasible measures in the waterbody have been taken:
  - The highest possible status is achieved
  - No further deterioration



# How should we practice art. 4(5)?

- Less stringent environmental objective to «moderate» to permit the activity?
- In light of the Weser ruling: Are we to use art. 4(5) to do a comprehensive analysis of the environmental consequences?
- How is this practised in other countries?



