# Major non-compliance: marine and freshwater pen fish farms

**Table 1: Major impact of the authorised activity**

| **Authorisation condition**  | **Major non-compliance**  | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Any authorisation condition | Non-compliance causes or has potential to cause:* Category 1 or 2 environmental event.
* Breach of water standard.
* Significant and sustained adverse trend for groundwater.
 | * Environmental events guidance.
* Evidence of Water Framework Directive (WFD) classification downgrade.
* Groundwater monitoring / investigation shows or modelling demonstrates significant and sustained adverse trend.

Catch-all condition breach, including CAR environmental harm condition. |
| Descriptive conditionsNo significant: * Iridescence/sheen.
* Discolouration.
* Deposition of solids.
* Increased foaming.
* Microbiological growth in receiving waters.
 | Non-compliance causes or has potential to cause Category 1 or 2 environmental events.   | * Site inspection.
* Environmental events guidance.
 |
| Authorised medicines and substances used in aquaculture | Using medicine or substance not specified in the authorisation, or at concentrations greater than specified in the authorisation or not administered as specified in the authorisation. | * Operator submission reviews.
* Site inspection.
 |
| Limits on biomass or fish production or phosphorus in aquaculture | Exceedance of limits by more than 10%.Four or more months exceeding the biomass limit up to and including 10%. | * Operator submission reviews.
* Site inspection.
 |
| Sea lice limit | Any breach of maximum limit during any single count during weeks 12 to 22.Any breach of the average limit over any consecutive 4-week period (weeks 12 to 22 but limit can only be assessed in week 15). | * Weekly returns (weeks 12 to 22).
* Site inspection.
 |

**Table *2: Scope of site***

| **Authorisation condition**  | **Major non-compliance**  | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Marine pen fish farm location | Pen group located more than 100m (old framework) or 180m (new framework) from licensed position. | Assessment carried out by physically checking pen corner locations with handheld GPS. |
| Freshwater pen fish farm location | Fish farm not as specified in licence. | Assessment carried out by physically checking pen corner locations with handheld GPS. |
| Pen fish farm species | Growing a species with a different species factor to that in the licence for marine sites or any different species for freshwater sites. | Know the species being grown and that licensed. If a different factor would have been used in application determination, then the non-compliance should be recorded as ‘Major’. |

**Table 3: Understanding of authorised activities**

| **Authorisation condition**  | **Major non-compliance**  | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Notification of incident or event | Unless specified otherwise in the authorisation, failure to notify SEPA within 24 hours of an event that has caused or could cause an adverse impact upon the environment, human health and wellbeing. | * Site inspection.
* Environmental events guidance.

Authorisation provides definition of incident or event. |
| Requirement to submit routine data (records, reports, data) | Failure to make a data return (including nil returns) of adequate quality within 30 days of the required submission date. | * Requirement to submit data we assess.
* Adequate quality means containing the necessary information to enable the assessment of compliance with permit conditions.
* The 30-day submission period **does not apply** to sea lice counts.
 |
| Requirement to keep records | Failure to provide upon request information required by the authorisation.  Information submitted is not true and accurate.   Records are not kept for the minimum duration.  | Records examined during inspection or requested by SEPA or submitted in support of an application. |
| Marine pen fish farm seabed surveys | Overall survey assessment is survey non-compliant or survey inadequate, or the survey has not been undertaken. | * Assessment of operator submission.

A non-compliant survey is any breach of the two biological standards or a breach of the chemical residue standard. |
| Missed sea lice count or sea lice data return not submitted or not of adequate quality | Any missed weekly count or failure to submit a sea lice data return of adequate quality by the required submission day during the period week 12 to 22 where there are specified sea lice limits in the authorisation.Missed weekly counts, or failure to submit a sea lice data return of adequate quality for those counts by the required submission day, for 2 consecutive counts or 4 or more counts during the period week 12 to 44.Data returns must be submitted in the correct format and to the correct location where these have been specified in an authorisation. | * Assessment of operator submission.
* Site inspection.

Adequate quality means containing the necessary information to enable the assessment of compliance with authorisation conditions. |

**Table 4: Overall management of authorised activities**

| **Authorisation condition**  | **Major non-compliance**  | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Compliance with authorisation conditions | Multiple non-compliance (same or different conditions) which cumulatively equate to major non-compliance.  | Having regard to condition-specific guidance where this exists and/or environmental events guidance and events records. * More than or equal to 4 category 3 events within a 365-day period which have been caused by a breach of the same condition.
* Unless otherwise stated within the site authorisation, multiple non-compliance breaches may be considered collectively as major non-compliance depending on the particular circumstances. SEPA's assessment will be subject to additional governance checks to ensure national consistency in decision-making.
 |
| Requirement to have plans (Environmental Monitoring Plan) | No plans available. | * Site inspection.
 |
| Conditions covering management of site, infrastructure, technical competence, equipment or training | Causing or posing the risk of causing a Category 1 or 2 event. | * Site inspection.
 |
| Fallow period at pen fish farms  | Continuous stocking between growth cycles with no fallow periods. | * Assessment of operator submission.
* Site inspection.
 |

**Table 5: Wider legal environmental requirements and financial non-compliance**

EPAS is designed to provide a more accurate picture of legal environmental compliance. We will therefore assess compliance of the following situations under EPAS as it is important a performance record reflects this.

| **Contravention** | **Major non-compliance**  | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Undertaking a regulated activity without authorisation | Undertaking a regulated activity without authorisation. | * Site inspection.
 |
| Environmental event at an authorised site that is **unrelated to the authorised activity** | Causes a:* Category 1 or 2 environmental event.
* Breach of water or air quality standard.
* Significant and sustained adverse trend for groundwater.

Example: fuel oil spill.  | * Environmental events guidance.
* Evidence of Water Framework Directive (WFD) classification downgrade.
* Groundwater monitoring / investigation shows or modelling demonstrates significant and sustained adverse trend.
 |
| Non-payment of annual charges | Major non-compliance = escalation to debt collection or if debt goes into next financial year.Non-compliance = more than 90 days late. | * Monthly debtors report.
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