# Major non-compliance: water resources

**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 conditions  No significant:   * Iridescence / sheen. * Discolouration. * Deposition of solids. * Increased foaming   in receiving waters. | Non-compliance causes or has potential to cause Category 1 or 2 environmental events. | * Site inspection. * Environmental events guidance. |
| Abstraction numeric limits | * Daily abstraction rates: limits exceeded by more than 20%. * Combined abstraction rates (as specified in the authorisation): limits exceeded by more than 20%. * Instantaneous abstraction rate: limits exceeded by more than 20%. * 25 or more exceedances of more than 20% of daily limit\* in a 12-month period. Exception: seasonal licences of more than180 days = 14 exceedances. * 25 or more exceedances of more than 20% of combined abstraction rate (as specified in the authorisation) in a 12-month period. * Breach of yearly / seasonal abstraction limits\*\*. | Assess against authorisation limit using:   * Operator data. * SEPA monitoring data e.g. gauged flows. * Site inspections - data examined during site inspections and / or gauged flows.   \* Default assessment of compliance will be made on daily limits and assessment on instantaneous flows will be made if there is no daily limit authorised.  \*\* Assessment of yearly / seasonal limits will be made independently from daily limits. |
| Abstraction water scarcity conditions | Breach of any temporary restriction on abstraction during a water scarcity event. | Assess against Notice limit or water scarcity condition.  Assess against authorisation limit using:   * Operator data. * SEPA monitoring data e.g. gauged flows. * Site inspections - data examined during site inspections and / or gauged flows. |
| Impoundment: mitigation flows (e.g. compensation flows, hands-off flows and freshets) | * Mitigation flows are less than 80% of the required flows in the authorisation. * 25 or more breaches of mitigation more than 20% (i.e. between 80-100% of the required flows in the authorisation). * No reduction in number of breaches for seasonal licences as mitigation flows need to be provided at all times. * Compensation structure deliberately obstructed. * Non-delivery of freshet, where not agreed with SEPA in advance. | Assess against authorisation limit using:   * Operator data. * SEPA monitoring data e.g. gauged flows. * Site inspections - data examined during site inspections and / or gauged flows. |
| Return abstracted water - temperature | Any breach greater than 5°C. | * On site measurement or assessment of cooling water data required by licence. |

**Table 2: Scope of site**

| **Authorisation condition** | **Major non-compliance** | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Provision of fish pass and screens | Fish pass or screen not provided.  Fish pass or screen not maintained or not operated to provide passage of migratory fish\*.  Fish pass or screens must not cause harm to fish.  Fish pass must not prevent passage of migratory fish. | * Presence or absence of fish pass / screen. * Ecological surveys.   \*Note: not maintained or operated excludes operational breakdown, notified to SEPA and not exceeding 30 days in any 12-month period. This would be non-compliance, not major non-compliance. |
| Impoundment:  Height and capacity of impoundment | The height of impoundment and / or the capacity of impounded volume exceeded. | Against limit in authorisation via data returns or from data examined during site inspections. |
| Groundwater | Depth of borehole exceeded or located in the wrong place, which results in an adverse impact on the water environment. | On site measurement for depth and location and / or evidence in drilling logs. |
| Return abstracted water - scour | Return of abstracted water shall not cause significant scour which leads to a failure of environmental standards. | On site assessment including visual assessment, site measurements.  Desk top review of historic records and satellite photography and information contained in SEPA records such as application documents. |

**Table 3: Understanding of authorised activities**

| **Authorisation condition** | **Major non-compliance** | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Requirement to report incidents (either in operation of plant or environmental events) | Unless specified otherwise in the permit, 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.  Failure to submit an incident report within 14 days. | * Operator notification received within timescale – by phone call or email. * Operator incident report submitted in accordance with authorisation conditions. |
| Requirement to submit data (records, report, data) | Failure to make a data return (including nil returns) of adequate quality within 30 days of the required submission date. | Less than 30 days late = ‘Non-compliant’.  More than 30 days late = ‘Major non-compliant’.  Adequate quality means containing the necessary information to enable the assessment of compliance with permit conditions.  Where data is missing:  Less than 30 days = ‘Compliant’.  More than 30 days = ‘Major non-compliant’. |
| 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. | * Review of records, data returns and submission. * Site inspection. * Incident investigation. |

**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.   * Greater 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. |
| Operation and calibration of measuring and monitoring equipment | Repeated failure to carry out required maintenance and calibration of monitoring equipment and data recording equipment to demonstrate true and accurate data. | Inspection of calibration and maintenance records.  Review method of deriving returns data is fit for purposes i.e. pump rates, back calculated from power generation etc.  Assess comments associated with data quality issues. |

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

EPAS is designed to provide a more accurate picture of legal environmental compliance. Under EPAS we will therefore assess compliance of the following situations 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.  E.g. drilling and operation of borehole on any authorised site or installation of impoundment without authorisation (temporary or otherwise). | During inspections of authorised and unauthorised sites. |
| Environmental event at an authorised site that is **unrelated to the authorised activity** | Causes a:   * Category 1 or 2 event; or * Downgrading of annual water or air classification; or * Significant and sustained adverse trend for groundwater.   \*do not need evidence a classification site is downgraded, could rely on modelling to predict area of impact, and/or test if it breaches spatial standards.  Previous guidance to assess major for descriptive conditions = equivalent to a Category 1 or 2 environmental event. | * Environmental events guidance. * Evidence of Water Framework Directive (WFD) classification downgrade. * Groundwater monitoring / investigation shows or modelling demonstrates significant and sustained adverse trend.   Examples relevant to water resources:   * Sediment management in abstraction infrastructure (not covered in the authorisation activities) resulting in the release of solids to the water environment. |
| 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. |

<Report date here (month, year)>

For information on accessing this document in an alternative format or language, please contact SEPA by [email](mailto:epas@sepa.org.uk) or telephone 0300 099 6699.

If you are a user of British Sign Language (BSL), the [Contact Scotland BSL](mailto:contactscotland-bsl.org) service gives you access to an online interpreter, enabling you to communicate with us using sign language.