# Major non-compliance: engineering

**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 – this includes significant morphological impact (e.g. erosion, instability).
* Breach of water standard.
 | * Environmental events guidance.
* Relevant water standards:
* Evidence of Water Framework Directive (WFD) classification downgrade.
* Failure to comply with an Environmental Quality Standard (EQS) or relevant groundwater standard.
* 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, or
* Microbiological growth

outside of site.  | Non-compliance causes or has potential to cause Category 1 or 2 environmental events.  | * Site inspection.
* Environmental events guidance.
 |

**Table 2: Scope of site**

| **Authorisation condition**  | **Major non-compliance**  | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Location | Engineering activities being undertaken at location not specified in authorisation\*.  | * Site inspection - NGR check.

\*This is a site-specific assessment that will be based on scale of location breach, the waterbody size and sensitivity. Guidance on what constitutes non-compliance versus major non-compliance will be developed.  |
| Timescales | Undertaking works during non-permitted periods e.g. working during periods when fish spawning and emergence of juveniles. | * Site inspection or evidence from a third party e.g. date stamped photos / video.
 |
| Design drawings | Designs (conditions or drawings) not followed to extent which leads to increased flood or drought risk, barrier to fish passage, impact on other infrastructure and/or other water users).  | * Site inspection e.g. comparison of ‘as built’ compared to an approved design drawing.
* Investigation by inspecting officer.
 |

**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 incident notification received within timescale – by phone call or email.
* Operator incident report.

“Incident” means any of the following situations: accidents; malfunction, breakdown, or failure of plant or techniques; or any event such as *force majeure* or emergency actions, which results or is likely to result, in a breach of any condition of the authorisation. |

**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.
 |
| Completion, restoration, mitigation or clean up conditions  | Completion, restoration, mitigation or clean-up conditions not complied with.Examples: * Silt mitigation failure causes extensive silt pollution.
 | Investigation by inspecting officer. |

**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, for example:* Unauthorised bank re-profiling at site authorised for sediment removal.
* Unauthorised embankments created at site authorised for sediment removal.
 | * 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.

For example:  * Unauthorised engineering activity causes extensive silt pollution.
* Hydrocarbon pollution associated with on-site fuel storage.
* Biosecurity hazards caused with inappropriate disposal of invasive species when carrying out authorised bank reprofiling.
 | * 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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<Report date here (month, year)>

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