# Major non-compliance: industrial activities

**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 or air quality standard. * Significant and sustained adverse trend for groundwater. | * Environmental events guidance. * Determine if any environmental standards have been breached: * Evidence of Water Framework Directive (WFD) classification downgrade. * Local environmental standard. * Groundwater monitoring / investigation shows, or modelling demonstrates significant and sustained adverse trend. |
| Descriptive conditions  No significant:   * Iridescence/sheen. * Discolouration. * Deposition of solids. * Increased foaming, or * Microbiological growth   in receiving waters.  Conditions covering the control of nuisance, including but not limited to odour, noise, dust, litter, aerosols and the presence of vermin. | Non-compliance causes or has potential to cause:   * Category 1 or 2 environmental event. | * Environmental events guidance.   Inspection of the ‘Pollution Control’ or ‘Nuisance’ Schedule of the Permit.   * SEPA’s [odour guidance](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.sepa.org.uk%2Fmedia%2Fh4ocmt2z%2Fsepa-odour-guidance-2025.docx&wdOrigin=BROWSELINK). * Noise: events categorisation guidance. |
| Single tier numeric limits set to achieve environmental standards | More than twice the limit specified in authorisation.  Exceptions:   * pH: limit exceeded by more than 1 unit. * Temperature: exceeded by more than 5°C. * Any breach of a treated effluent emissions limit to water for upper-tier only conditions. * Landfill leachate head >1m above permitted threshold. * Perimeter borehole landfill gas levels greater than 5% methane. | * SEPA monitoring data. * Operator self-monitoring. * [Regulatory Method (WAT-RM-40)](https://www.sepa.org.uk/media/152818/wat-rm-40.pdf). * [Guidance on the management of landfill gas](https://www.sepa.org.uk/media/28986/guidance-on-the-management-of-landfill-gas.pdf). |
| Two-tier numeric limits set to achieve environmental standards (set according to a specified statistical distribution) | * Any breach of upper-tier limit. * Number of planned samples exceeding lower tier limit is greater than the maximum number of permitted exceedances specified in the look up table. | Assess against authorisation conditions and look up table.   * SEPA monitoring data. * Operator self-monitoring. * [Regulatory Method (WAT-RM-40)](https://www.sepa.org.uk/media/152818/wat-rm-40.pdf). |
| Annual numerical limits | Any breach of the limit specified in the authorisation. | Assess against limit in authorisation, using:   * SEPA monitoring data. * Operator monitoring data. * SEPA guidance. |

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

| **Authorisation condition** | **Major non-compliance** | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| All conditions relating to the authorised place, person or activities | Authorised place, person or activity not operating as described in the Permit.  For example:   * Deposition of waste outside the authorised area. * Deposition of waste outside the authorised landfill cell containment area. * Incorrect discharge location. | * Site inspection. * Review of the on-site records. * SEPA investigative monitoring data. |
| Limit on the amount of waste that can be accepted, stored or treated on a site | Exceeding the limit that is authorised for acceptance, storage or treatment on site where the authorised person is unable to manage the material in an effective manner – causing or posing the risk of causing a Category 1 or 2 environmental event. | * Site inspection, including on-site records review. * Data return review. |
| Type of waste that can be accepted | Accepting unauthorised waste.  Allowance made for some unauthorised waste entering site and being dealt with in accordance e.g. via quarantine procedures. Only where this does not happen, is this deemed major non-compliance. | * Site inspection. * Data return review. |

**Table 3:** **Understanding of authorised activities**

| **Authorisation condition** | **Major non-compliance** | **How will SEPA assess / supporting guidance** |
| --- | --- | --- |
| Requirement to report incidents / events (either in operation of plant or environmental events) | Failure to notify SEPA within 24 hours of an event that has caused or could cause an adverse impact upon the environment, human health or wellbeing.  Failure to submit a report within 14 days or the report does not comply with the information requirements specified in the authorisation. | Assess incident against incident/event conditions in authorisation and environmental events guidance. |
| Requirement to submit data (records, reports, data) | Failure to make a data return (including nil returns) of adequate quality within 30 days of the required submission date. | SEPA will assess the submission to confirm it has been received within the correct timescale.  Adequate quality means containing the necessary information to enable the assessment of compliance with permit conditions.  Adequate quality includes a data report that has the required evidential data e.g. numerical measurements but also compliance context.  If an operator is near the compliance limit, information should be included about how this will be managed going forward. |
| Management plans | Management plan not submitted, or when they are submitted, they are of very poor quality or content. | Using available guidance i.e. latest versions of SEPA Odour Guidance for Odour, BS4142 and H3 for Noise, BREF documents etc.  [SEPA landfill management plan guidance](https://www.sepa.org.uk/media/594599/sepa-landfill-management-plan-guidance.pdf).  Management plan does not cover all potential scenarios which have potential to occur, and the site officer deems need addressed i.e. a vermin management plan at a waste site does not include flies, or if it does, the measures proposed are not adequate. |
| 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. | No information provided. |

**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. |
| Conditions covering management of site, technical competence infrastructure, equipment or training | Non-compliance causes or has potential to cause Category 1 or 2 environmental event:   * Includes commissioning requirements, training, staff resource, maintenance and breakdowns, management of change, procedures. * Authorised activities not managed or supervised by a designated technically competent person. * Implementation of an Environmental Management System which considers BAT at all stage. * Infrastructure or equipment required by the permit not installed or not working for extended periods of time (e.g. more than 3 months). * Monitoring equipment not calibrated in accordance with authorisation requirements. | Based on produced guidance or as decided by SEPA.  [Guidance regarding provision and assessment of technically competent management at waste management facilities.](https://www.sepa.org.uk/media/5tqhkxzl/technically_competent_management_licenced_waste_management_facilities.pdf) |
| Conditions covering the acceptance of waste | Failure to implement appropriate pre-acceptance audit procedures of waste on receipt and/or at the point of disposal.  Failure to provide and maintain a calibrated weighbridge at the authorised place.  Failure to record and weigh all waste accepted at the authorised place using the weighbridge.  Failure to comply with:   * The criteria and procedures for the acceptance of waste at Landfills (Scotland) Direction 2005. | * Assessment by document review with reference to healthcare waste guidance. There is a need for PAAs to be satisfactory. which is covered in: * [Guidance for the storage and treatment of healthcare waste.](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.sepa.org.uk%2Fmedia%2F40kf3raj%2Fguidance_storage_treatment_hcw.docx&wdOrigin=BROWSELINK) * Inspection of weighbridge records. * Refer to Authorised Wastes & Quantities Schedule of permit and [SEPA Landfill Site Management Plan guidance.](https://www.sepa.org.uk/media/594599/sepa-landfill-management-plan-guidance.pdf)   The Landfill Regulation Team will use waste acceptance criteria themed inspection checklists to assess compliance. |
| Conditions covering management of hazardous material | Risk of accident – causing or posing the risk of causing a Category 1 or 2 environmental event. | Inspection and environmental events guidance. |
| Any BAT requirement (as defined by SEPA) | Failure to comply with a permit condition requiring the implementation of BAT (as defined by SEPA). | Best practice guidance. |
| Monitoring | Monitoring not undertaken for a period of more than or equal to 30 days from the required date.  Deviation from monitoring requirements of their authorisation. The extent of the deviation will determine if the breach is considered a major non-compliance. | SEPA will review the operators monitoring to assess extent of deviation. |

**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. In addition to below, our intent is to develop major non-compliance criteria for duty of care and special waste regulation contraventions and start to use these at the same time.

| **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 direct discharge into groundwater. * Unauthorised discharge to surface water. * Unauthorised Directly Associated Activities. | SEPA will check if an activity is being carried out which is not covered by an appropriate authorisation. |
| Environmental event at an authorised site that is **unrelated to the authorised activity** | Causes:   * Category 1 or 2 environmental event. * Breach of water or air quality standard. * Significant and sustained adverse trend for groundwater.   Examples relevant to industrial activities:   * Hydrocarbon pollution unrelated to authorised activity – diesel tank on site which is used to fuel vehicles ruptures. * slow contamination of borehole required by permit from unrelated vehicles. | * Environmental events guidance. * Determine if any environmental standards have been breached\*: * Evidence of Water Framework Directive (WFD) classification downgrade. * Local environmental standard e.g. spatial standard breach. * Groundwater monitoring / investigation shows or modelling demonstrates significant and sustained adverse trend.   \*Modelling can be used to predict area of impact, and/or test if it breaches spatial standards. |
| Failure to comply with requirements of [The Persistent Organic Pollutants Regulations 2007](https://www.legislation.gov.uk/uksi/2007/3106) | * Failure to dispose of or recover POPs-contaminated waste in such a way as to ensure that the POPs content is destroyed or irreversibly transformed. * Undertaking any disposal or recovery operations that may lead to recovery, recycling, reclamation or reuse on their own of the POPs-contaminated wastes. | Assessment against [Guidance on the management of Waste Upholstered Domestic Seating (WUDS) containing Persistent Organic Pollutants (POPs)](https://www.sepa.org.uk/media/tnoa12he/waste-upholstered-domestic-seating-containing-pops-guidance.pdf) and the overarching requirements of [The Persistent Organic Pollutants Regulations 2007.](https://www.legislation.gov.uk/uksi/2007/3106) |
| 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. |

**Annex: Major non-compliance specific to landfill activities (not captured in the PPC general document above)**

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| --- | --- | --- |
| **Authorisation condition** | **Major non-compliance** | **How will SEPA assess/ supporting guidance** |
| Financial provision | Submissions to demonstrate the maintenance of adequate financial provisions are not provided to SEPA within 30 days of the date specified in the permit.  Failure to maintain adequate FP.  Non-renewal of bond as per frequency specified in performance agreement. | Assess submission of annual financial certificate and three yearly confirmation of the financial certificate.  Assessment of annual company accounts to ensure adequate financial provisions are being made to cover all permit obligations including aftercare and closure.  Bond should be renewed as per frequency and at quantum specified in associated performance agreement.  [technical-guidance-note-estimate-of-amount-of-financial-provision-for-landfill.pdf](https://www.sepa.org.uk/media/28996/technical-guidance-note-estimate-of-amount-of-financial-provision-for-landfill.pdf) |
| **Authorisation condition** | **Major non-compliance** | **How will SEPA assess/ supporting guidance** |
| Conditions covering containment, capping and restoration | Construction Quality Assurance (CQA) Plans or Reports are not submitted, or where they are submitted they are of very poor quality or content.  Failure to provide a CQA Report prior to the deposition of waste in any new cell.  Failure to provide a CQA Report within 30 days from the date specified in the Permit, for capping, leachate well and landfill gas infrastructure.  Capping not applied within three months of the date specified in permit.  Restoration Management Plan (RMP) not submitted, or is not representative of on-site activities or when they are submitted, they are of very poor quality or content.  Failure to restore the landfill in accordance with a SEPA agreed RMP.  Undertaking restoration without having a SEPA agreed RMP. | SEPA will assess the submission against relevant permit conditions using landfill engineering guidance documents.  Site inspection.  SEPA will assess the quality of RMP against WST-G-57 guidance.  Site inspection to assess potential to cause an impact upon the environment, human health or wellbeing.  A review of documents to confirm:   * Correct waste types. * Excessive waste volumes. |
| **Authorisation condition** | **Major non-compliance** | **How will SEPA assess/supporting guidance** |
| Requirement to extend the landfill gas management system following the capping of a cell or phase. | Failure to extend the landfill gas management system within six months of capping a cell or phase. | Site inspection and review of CQA documents. |
| Conditions covering the management of asbestos waste | Operations which could lead to the release of asbestos fibres. Major non-compliance but not necessarily a Category 1 or 2 environmental event. | Site inspection.  [The Disposal in Landfills for Non-Hazardous Waste Of Asbestos, Wastes (sepa.org.uk)](https://www.sepa.org.uk/media/28999/the-disposal-in-landfills-for-non-hazardous-waste-of-asbestos-wastes.pdf) |

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