



# Compliance assessment scheme guidance manual

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# Introduction

## 1 Aims and benefits

1.1 SEPA's compliance assessment scheme will help deliver its 'principles for regulation' as follows:

**1.1.1 Proportionate**

Compliance assessments will ensure that SEPA resources are targeted towards activities where there is unsatisfactory compliance. Compliance assessment results will inform SEPA's resourcing decisions.

**1.1.2 Consistent, fair and legally correct**

The scheme aims to streamline and standardise compliance assessment across SEPA's different regulatory regimes. It will therefore provide a 'level playing field' due to consistent and fair assessments across different activities.

**1.1.3 Transparent and accountable**

By using clearly structured and simple compliance records, which are available to licence holders and the public, the compliance assessment will be shown to be as transparent and objective as possible.

**1.1.4 Targeted, efficient and effective**

By consistently and transparently providing feedback on compliance issues to licence holders within a structured and formal framework, the scheme will help SEPA to deliver the desired environmental outcomes by working with licence holders. Public scrutiny of published compliance data is intended to encourage environmental improvement.

## 1.2 Publication

The Freedom of Information Act 2002 requires SEPA to publish information it holds, or to make such information available on request. With the exception of licences with national security and/ or commercial confidentiality issues, the overall compliance band result for each licence will be made available on SEPA's website. Compliance assessment records for specific licences will be issued to licence holders once completed and will also be made available to the public on request.

## 1.3 Enforcement

SEPA's compliance scheme will be used along with other relevant information to inform its enforcement activities, in accordance with its enforcement policy. Nothing in this scheme will preclude SEPA taking enforcement action in certain circumstances regardless of the compliance assessment. The use of enforcement action is in accordance with [SEPA's Enforcement Guidance](#). Publishing the outcome of enforcement action taken is in accordance with our [Communicating Penalties and Undertakings Policy](#).

## 2 Scope of scheme

2.1 The scheme will be used to assess compliance with permits, authorisations, certain registrations or licences (referred to generically as 'licences' in this document) for all regimes regulated by SEPA, with a number of exclusions which relate to very low risk activities or activities that are short-lived or not regulated by licence. Assessment of compliance with the Control of Major Accident Hazards (COMAH) Regulations is not within the scope of the scheme as no licence is issued. Other exclusions and the phased implementation timetable are listed in Table 1.

2.2 The scheme is deliberately restricted to assessing compliance with the requirements of licences and any general or specific statutory requirements associated with the relevant licence regime, e.g. the use of best available techniques (BAT) under the PPC regime.

2.3 The scheme focuses on the compliance of a licence holder with their licence and not on the inherent hazard which the activity may present. The inherent risk that an activity may present is reflected in the licence conditions, which are applied to ensure effective management of the risk.

**2.4** The scheme will be applied for each calendar year with the assessment ongoing throughout the period. After the end of the calendar year, licence holders will be notified by SEPA of their assessment result. The result will be finalised during the spring of the following calendar year.

**Table 1 Timetable**

| Implementation dates                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| January 2009                                                                                                                                                                                                      | PPC - Part A and Part B                                                                                                                                                                                                                                                                                                                             |
| January 2010                                                                                                                                                                                                      | Waste Management Licensing (WML) – (Larger sites)<br>Controlled Activities Regulations (CAR) - Point source discharges (categories listed below): <ul style="list-style-type: none"> <li>• STWs &gt;2000pe</li> <li>• Fish farms</li> <li>• Water treatment works</li> <li>• Distilleries</li> <li>• Breweries</li> <li>• Cooling waters</li> </ul> |
| January 2012*<br>* Note for some lower risk sites that are not monitored during 2012 (or later) they will not be reported under the scheme until their next inspection unless there is an environmental incident. | Controlled Activities Regulations (CAR) – Water Resources Licences (abstractions and impoundments)<br>Controlled Activities Regulations (CAR) – Remaining point source licences<br>Radioactive Substances Act (RSA) – Registrations & Authorisations<br>Waste Management Licensing (WML) – Remaining sites                                          |
| Not to be implemented into the compliance assessment scheme                                                                                                                                                       | Control of Major Accidents and Hazards (COMAH) Regulations<br>Controlled Activities Regulations (CAR) – Engineering<br>Controlled Activities Regulations (CAR) – Diffuse Pollution<br>Waste management licensing (WML) – Exemptions<br>Producer Responsibility Regime<br>Transfrontier Shipments of Waste Regime<br>Waste Carriers & Brokers        |

### 3 The compliance matrix

**3.1** The scheme distinguishes between conditions that relate directly to the environment and those which relate to management requirements that ensure appropriate environmental protection. These two types of conditions are referred to as:

- Environmental Limit Conditions (ELCs);
- Environmental Management Conditions (EMCs).

**3.2** SEPA considers both types of conditions to be equally important and has developed a compliance matrix made up of six compliance bands, see [Figure 1](#):

- excellent
- good
- broadly compliant
- at risk
- poor
- very poor

These bands allow the compliance assessment for an activity to be tracked year on year.

- 3.3** The matrix has been designed to:
- provide an *excellent* result for activities with no breaches, i.e. full compliance with environmental limits and high performance on environmental management attributes;
  - highlight *very poor* activities where there are breaches of environmental limits as well as low management performance;
  - assign activities where environmental management is assessed as having low performance level as:
    - *at risk* if there have been no ELC breaches and
    - *poor* or *very poor* if there have also been breaches of ELC limits;
  - assign either a *broadly compliant* or *good* overall band to activities where there are only minor breaches or non-compliances.
- 3.4** Assessment rules have been developed to determine gross, significant and repeated minor breaches for ELCs, as well as high, medium and low performance for EMCs. However, breaches of ELCs or non-compliances with EMCs do not necessarily translate into an environmental impact. For example: an effluent discharge to a river that exceeded the licensed limits would be counted as a breach even though it may have caused no environmental impact because the river was in spate.
- 3.5** The overriding concern in developing these rules has been to promote consistency and fairness across regulatory regimes. For this reason, SEPA has set generic rules for assessing gross and significant breaches as well as repetitions of a minor breach. Some regimes have different or specific additional rules due to fundamental differences in the type of activity, licensing regime or process control expected.
- 3.6** The scheme takes account of good management practice whether or not it is implemented as part of a formal accredited Environmental Management System (EMS).
- 3.7** Overall compliance is considered *satisfactory* where the overall compliance assessment is Excellent, Good or Broadly compliant and *unsatisfactory* where the overall compliance assessment is *Very Poor*, *Poor* or *At Risk*. SEPA will direct and prioritise resources to move sites from unsatisfactory to satisfactory compliance.

**Figure 1 Compliance matrix**

|                                                |                       | Environmental Limit Conditions (ELCs') |                                       |                                                                                       |
|------------------------------------------------|-----------------------|----------------------------------------|---------------------------------------|---------------------------------------------------------------------------------------|
|                                                |                       | No breaches                            | Minor breach(es)/<br>one gross breach | Significant<br>breach, more than<br>one gross breach<br>or repeated minor<br>breaches |
| Environmental Management<br>Conditions (EMC's) | High<br>Performance   | Excellent                              | Good                                  | Poor                                                                                  |
|                                                | Medium<br>Performance | Good                                   | Broadly compliant                     | Poor                                                                                  |
|                                                | Low<br>Performance    | At risk                                | Poor                                  | Very Poor                                                                             |

## Part 2: Scheme details

### 4 General guidance

#### 4.1 Calendar year and overall bands

The assessment will be undertaken on a calendar year basis i.e. January to December.

Each licence assessed in a calendar year will be allocated into one of the following overall compliance bands for that year – excellent, good, at risk, broadly compliant, poor, and very poor. These bands are defined as follows:

|                          |                                                                                                                                                               |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Excellent</b>         | SEPA assesses the licence holder as fully compliant with licence conditions.                                                                                  |
| <b>Good</b>              | SEPA assesses the licence holder as not quite fully compliant with licence conditions and highlights one or two areas for improvement to achieve 'excellent'. |
| <b>Broadly compliant</b> | SEPA assesses the licence holder as broadly compliant with licence conditions but highlights several areas for improvement.                                   |
| <b>At risk</b>           | No breach of ELCs has been identified but a low management performance indicates a risk of future breaches of ELCs.                                           |
| <b>Poor</b>              | SEPA assesses the licence holder as non-compliant or responsible for at least one significant breach.                                                         |
| <b>Very poor</b>         | Significant non-compliance. Urgent improvement is required across all areas.                                                                                  |

#### 4.2 Assessment

The scheme will be applied throughout the calendar year by the inspecting officer who will record, explain and comment on any breaches or non-compliances on the compliance record. Early the following year, information on this record will be used to determine the annual overall compliance band. SEPA officers will communicate, in a timely manner, the findings of inspections, monitoring reviews or investigations to licence holders.

### 4.3 In-year improvements

Performance improvements during the calendar year in response to any breaches or non-compliances will not prevent these breaches or non-compliances being taken into account in the relevant year's assessment. However, breaches or non-compliances during the assessment year may be discounted where:

- a licence condition has been changed by variation during the assessment year to correct an irregularity that resulted in a breach or non-compliance; or SEPA has indicated in writing to the licence holder that it intends to do so.

In response to a breach of ELC condition, further repeated breaches may be discounted providing:

- SEPA has agreed in writing an improvement plan which specifies a date by which the breach will be rectified to ensure future compliance and the improvement plan is complied with; or
- SEPA has issued an enforcement notice seeking compliance with the condition by a date specified in the notice and the notice is complied with;
- There have been no major (Category 1) or significant (Category 2) environmental events relating to that ELC in the intervening period.

In the above situation, where the enforcement notice or improvement plan is complied with and there are no significant breaches (major or significant environmental event), the SEPA officer will only record in the Compliance Record the initial breach of ELC and any relevant EMC attribute. However if at the end of the specified date in either the improvement plan or enforcement notice, the improvement plan or enforcement notice have not been complied with, then any repeated breaches in the intervening period will be recorded in the Compliance Record. The onus therefore is on the licence holder to comply with the improvement plan or enforcement notice and mitigate or minimise the impacts in the intervening period.

As the assessment is annual, it is essential that licence holders respond to any breach and non-compliances to prevent:

- any further breaches;
- any escalation from a minor non-compliance to a major non-compliance.

### 4.4 Multi-licence sites

Sites that hold more than one licence (in one or more media) will be assessed individually against each licence held.

Licences with more than one activity e.g. a Part A and a Part B process will be assessed together and allocated a single overall compliance band for the calendar year.

### 4.5 Multiple inspectors

Where a complex licence requires assessment by more than one SEPA inspector, the assessment will be undertaken and agreed jointly by the inspecting officers.

### 4.6 New, surrendered, revoked, suspended, cancelled and transferred licences

An assessment will be carried out for an activity undertaken during the year in question for whatever period the activity was licensed for during that year.

Where a licence is transferred during the year, a separate assessment will be carried out for each licence holder.

#### **4.7 Infrequent inspections**

Certain licensed activities are considered to be low risk and, as a result, are not routinely inspected each year. However, where the previous calendar year assessment was *at risk/ poor/ very poor*, SEPA will follow up previously identified breaches or non-compliances and reassess compliance for the subsequent year. Once the licence has achieved a satisfactory annual assessment, it will revert to the inspection frequency allocated as per the risk assessment.

Inspection activity will be focussed on the prevention of environmental impacts from a licensed activity and repeated inspections may focus on the same area. To facilitate this SEPA may take up to 3 years to assess all conditions on higher risk licences and up to 6 years on lower risk licences.

#### **4.8 Licence holder responsibility**

Licence holders (known as responsible person in CAR) will be considered responsible for any licence breaches or non-compliances (subject to 7.37).

Breaches will be recorded even if the licence holder was not directly responsible for the breach, e.g. where a reporting requirement is sub-contracted to a third party and no report is submitted to SEPA (subject to 7.37).

#### **4.9 Avoiding 'double counting'**

The structure of the compliance scheme aims to avoid 'double counting' of the same non-compliance issue. However, a breach may be recorded under a specific ELC while the cause of the breach may be due to a specific management problem, which may also be recorded as a non-compliance with an EMC. For example, an emission limit value may have been exceeded (recorded as a breach of an ELC) because a spare part was not available (recorded as a non-compliance of an EMC).

## **5 Quality assurance**

### **5.1 Inspection, data return and sampling reports**

Any breaches or non-compliances identified during an inspection, or from review of operator data returns will be:

- discussed at the time of inspection where operators are present or as soon as possible where operator is not present. This could include the identification of a potential issue that requires clarification back at the office.
- clearly stated in the inspection report;
- communicated in an appropriate and timely manner to the licence holder, in normal circumstances this will be expected to be no more than 10 working days after the inspection.

SEPA will aim to assess operator submitted data returns within 30 days of receipt.

### **5.2 Sign off**

The appropriate SEPA manager will sign off the draft compliance record prior to issue to the licence holder for checking.

### **5.3 Internal audits**

SEPA will carry out a programme of internal audits of assessments to monitor and improve consistency across sectors and areas. The results of these audits will inform SEPA's staff training programme and further development of the scheme.

### **5.4 Licence holder checks**

Draft annual compliance records will be forwarded to licence holders as they are completed and signed off by SEPA managers. Licence holders will be requested to contact their local SEPA office regarding any factual errors in the assessment within 15 calendar days of the date of the



letter. During the assessment year the licence holder should report, any factual errors identified during inspection or data assessments to their local SEPA office.

### 5.5 Disputed assessments - in year

In the first instance license holders should discuss any appeal relating to the regulatory decision with the relevant local SEPA officer. If agreement cannot be reached, the matter should be escalated in writing to the SEPA officer's line manager by the license holder, for resolution within 10 working days of receipt of the assessment outcome.

The assessment result will stand pending the outcome of a regulatory complaint. If a formal dispute has not been raised, SEPA will consider the issue closed but SEPA will note in the Public Register that the license holder has disputed the assessment under the Regulatory Procedure.

### 5.6 Overall Annual Assessment Outcome

We issue a letter to communicate the outcome of all assessment for each licence assessed, where the final assessment is *Good, Broadly Compliant, At Risk, Poor and Very Poor*. We no longer routinely issue letters with a final assessment rated as *Excellent*. However, a letter will be issued on request by the Operator. All requests should be made to [compliance@sepa.org.uk](mailto:compliance@sepa.org.uk) quoting the licence number as the subject.

We expect to have letters issued for PPC, RSA and WML licences by the end of March for the previous year, and by the end of April for all CAR licences.

### 5.7 Disputed assessment – end of year outcome

In the event the operator disagrees with the final outcome, in the first instance license holders should discuss any appeal relating to the regulatory decision with the relevant local SEPA officer within 15 days of the date of the letter. If agreement cannot be reached, the matter should be escalated in writing to the officer's line manager by the license holder, for resolution with the SEPA officer's line manager. The assessment result will stand pending the outcome of a regulatory complaint. If a formal dispute has not been raised via the Regulatory Complaints Procedure (RCP), SEPA will consider the issue closed but SEPA will note in the Public Register that the license holder has disputed the assessment under the Regulatory Procedure.

Where it is believed that procedural issues *about SEPA's action, lack of action, or, about the standard of service provided by or on behalf of SEPA* are unresolved to the satisfaction of the license holder, the dispute may be raised under SEPA's Service Complaints Procedure (CHP).

A decision review request via our regulatory process, and a complaint about our service, are two entirely separate processes. Information for customers on SEPA's Service Delivery Complaints Handling Procedure (CHP) can be found on the following link:

<https://www.sepa.org.uk/media/118393/sepa-complaints-handling-procedure-a-guide-for-customers.pdf>

## 6 How to assess compliance

The scheme consists of seven steps to assess compliance against licence conditions. The seven steps are shown in Table 2 and detailed in [Section 7: detailed assessment guidance](#).

### 6.1 Available data

All data available to SEPA will be used to inform the assessment results. Such data includes:

- SEPA sampling/monitoring data;
- licence holder sampling/ monitoring data, as required by the licence;
- information/ data returns to SEPA by the licence holder;
- findings of SEPA inspections including data obtained from licence holder records.

- details of environmental incidents or events.

## 6.2 The Compliance Record

Information relating to the assessment will be recorded in the Compliance Record and assessed against the overall compliance matrix ([Figure 1](#)).

Annexes contain Compliance Record templates for:

- Annex 1 - [PPC Part A – Complex Licences](#)
- Annex 2 - [PPC Part B – PPC Part B, low risk licences](#)
- Annex 3 - [PPC Part A – Landfills \(hazardous and non-hazardous\)](#)
- Annex 4 - [Waste Management Licences](#)
- Annex 5 - [CAR - Point Source STW and Trade Effluent](#)
- Annex 6 - [CAR – Point Source Cage Fish Farms](#)
- Annex 7 - [CAR Water Resources](#)
- Annex 8a – [RSA - Nuclear Authorisations](#)
- Annex 8b – [RSA - Non-nuclear Authorisations](#)
- Annex 8c – [RSA - Open Source Registrations](#)
- Annex 8d – [RSA - Sealed Source Registrations](#)

Although the templates contain additional guidance relevant to these activities, reference will always be made to the specific conditions in the licence being assessed.

**Table 2: How to assess compliance**

| Step                                              | Description                                                                                                                                                                                                                                                                                                                                                                                                              | Page |
|---------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| <b>Environmental Limit Conditions (ELCs)</b>      |                                                                                                                                                                                                                                                                                                                                                                                                                          |      |
| <b>Step 1</b>                                     | <b>Identify ELCs</b><br>Identify or confirm the list of ELCs contained within the licence. List these in the Compliance Record.                                                                                                                                                                                                                                                                                          | 13   |
| <b>Step 2</b>                                     | <b>Assess ELCs</b><br>Assess compliance with each ELC and assign one of the following to each ELC: <ul style="list-style-type: none"> <li>• no breaches;</li> <li>• minor breach;</li> <li>• repeated minor breaches;</li> <li>• gross breach;</li> <li>• significant breach.</li> </ul>                                                                                                                                 | 14   |
| <b>Step 3</b>                                     | <b>Record environmental events</b><br>Record any environmental events attributed to the licensed activity but not already recorded under a specific ELC as a 'minor' or 'significant' breach.<br>NB Only events regulated under the licence will be recorded under the scheme.                                                                                                                                           | 16   |
| <b>Step 4</b>                                     | <b>Overall ELC compliance band</b><br>Derive and record an overall ELC compliance band. This will be the 'worst' assessment recorded for any individual ELC as follows: <ul style="list-style-type: none"> <li>• no breaches;</li> <li>• minor breach(es) or one gross breach;</li> <li>• significant breach(es), repeated minor breaches or more than one gross breach.</li> </ul>                                      | 20   |
| <b>Environmental Management Conditions (EMCs)</b> |                                                                                                                                                                                                                                                                                                                                                                                                                          |      |
| <b>Step 5</b>                                     | <b>Assess EMC attributes</b><br>Use the list of regime-specific attributes to assess the remaining conditions in the licence (referred to as EMCs). Assess each attribute as being one of the following: <ul style="list-style-type: none"> <li>• compliant;</li> <li>• minor non-compliance;</li> <li>• major non-compliance.</li> </ul>                                                                                | 20   |
| <b>Step 6</b>                                     | <b>Overall EMC compliance band</b><br>Derive the overall EMC assessment band by counting the number of minor and major non-compliances against EMC attributes. The overall EMC compliance band will be one of the following: <ul style="list-style-type: none"> <li>• high performance;</li> <li>• medium performance;</li> <li>• low performance.</li> </ul>                                                            | 22   |
| <b>Overall compliance band</b>                    |                                                                                                                                                                                                                                                                                                                                                                                                                          |      |
| <b>Step 7</b>                                     | <b>Overall compliance band</b><br>Use the compliance matrix ( <a href="#">Figure 1</a> ) to consider the overall ELC compliance band and the overall EMC compliance band to give an overall compliance band. This will be one of the following: <ul style="list-style-type: none"> <li>• excellent;</li> <li>• good;</li> <li>• at risk;</li> <li>• broadly compliant;</li> <li>• poor;</li> <li>• very poor.</li> </ul> | 23   |

## 7 Detailed assessment guidance

### Step 1 – Identify environmental limit conditions (ELCs)

#### 7.1 Listing ELCs

Each licence may have one or more ELCs. These will be identified either through the standard licence template or for each unique licence. Example ELCs have been identified in regime guidance, see annexes, and these will be used as far as possible supplemented, where necessary, by licence-specific ELCs.

#### 7.2 Types of ELCs

The scheme distinguishes between the following types of ELCs:

- 7.2.1 Scope ELCs** relate to the activity as described in the conditions of licence or the geographic boundary specified under the licence. E.g. description of installation, location of activity, with the exception of water resources activities, see Process ELCs, primary purpose of activities, waste types, scale of impoundments.
- 7.2.2 Numeric ELCs** – relate directly to the environment limit abstracted from or emitted to, and which has a single licensed threshold value. E.g. air or water emission/ water abstraction limit values (ELVs).
- 7.2.3 Numeric statistical ELCs** – relate directly to the environment limit abstracted from or emitted to, and which is licensed according to a specified statistical distribution. E.g. two-tier point source discharge licence conditions or compliance levels for a lower/ upper air ELVs and those requiring a set percentile compliance specified under the Waste Incineration Directive.
- 7.2.4 Process ELCs:**
- Relate to factors indirectly controlling emissions to any media including equivalent parameters and technical measures e.g. temperature of a thermal oxidiser, height of chimney. This includes production/ processing conditions which may be expressed numerically, such as waste volumes, storage limits and also timings, such as operational hours.  
For water resources this includes location, seasonality, timing and patterns of activities and provision of fish passes and screens.
  - Relate to the presence or absence in the environment e.g. conditions relating to offensive odour, litter out with the boundary, dark smoke, burning of waste, noise/ vibration) and where no numerical limit has been set.
  - Relate to conditions to protect the water environment from significant impacts, such as there shall be no significant oil, foam, sewage fungus, no environmental harm.
  - Relate to the use of bath treatment chemicals in the cage fish farm industry.
  - Relate to the disposal of radioactive substances.
  - Relate to the use of in-feed treatment chemicals in the cage fish farm industry.

#### 7.3 Minimisation

Licence conditions that require licence holders to minimise or reduce an impact e.g. mud, dust, vermin have not been included under ELCs but will be considered under the relevant Environmental Management Conditions (EMCs) attribute.

#### 7.4 Multiple parameter conditions

In some licences, a single condition can refer to ELCs with multiple parameters. In such cases each parameter monitored separately will be assessed separately for compliance, but only failures will be recorded separately in the Compliance Record.

#### 7.5 Multiple sources

ELCs will be assessed separately for each individual parameter for each emission/ discharge / abstraction point.

### Step 2 – Assess environmental limit conditions (ELCs)

**7.6** ELCs will be assessed using all available data including SEPA monitoring data, licence holder monitoring data, data on environmental events and the results of SEPA inspections. The ELC assessment rules are described below and summarised in [Table 3](#).

Guidance relating to specific ELCs can be found in Annexes 1 to 8.

**7.6.1 No breaches** – the ELCs specified in the licence are complied with.

**7.6.2 Gross breach** - these are set out in detail within the Annexes (1-8)

a) For PPC emissions and CAR effluents a generic approach of two times the licensed limit has been chosen as being one that can be applied across all media for emissions. For water resource activities such as abstractions and compensation flows, a value of 20% deviation from licensed limits has been chosen as the appropriate threshold for assessing whether a gross breach has occurred.

For radioactive gas and liquid effluent, operators are required to ensure that all discharges are As Low As Reasonably Achievable (ALARA) under the BPM conditions, and therefore the authorised limit has been chosen as the threshold for a gross breach.

The limits set within licences are based on what are safe limits for the environment or human health, or in accordance with the principles of best available techniques (BAT) for PPC sites or according to European directive requirements, to ensure that all appropriate preventative measures are taken against pollution. For many parameters, it is difficult to identify at what level a demonstrable impact on the environment or human health will occur as many pollutants have cumulative effects. An exceedance of twice licensed limit (or 20% for water resources) is likely to be the result of a systems failure considered to be an important issue and therefore a gross breach.

b) Any gross breach of a numerical parameter will be recorded as 'one gross breach'. The exceptions will be:

- when one event e.g. a catastrophic plant failure gives rise to gross exceedances to more than one parameter, this will be recorded as only one gross breach. In this circumstance it will be recorded in the Compliance Record against one parameter and comments made against the other parameters detailing the exceedance and cross-referencing to the parameter where the gross breach is recorded, as they will be counted towards any possible *repeated minor breaches*.
- Where there has been a breach of an ELC further repeated gross breaches of the same ELC may be discounted providing:
  - SEPA has agreed in writing an improvement plan which specifies a date by which the breach will be rectified to ensure future compliance; and the improvement plan is complied with; or
  - SEPA has issued an enforcement notice seeking compliance with the condition by a date specified in the notice; and the notice is complied with;
  - There have been no major (Category 1) or significant (Category 2) environmental events relating to that ELC in the intervening period.

In such cases the SEPA officer will only record the initial ELC gross breach. However should the conditions of the improvement plan or enforcement notice not be complied with, all intervening breaches will be recorded in the Compliance Record. Any improvement plan should clearly detail the actions which have been agreed, the improvements they are expected to achieve and timescales for any staged approach. The SEPA officer should confirm the date on which they will restart assessing compliance against that condition. Although further breaches of that ELC are being discounted during this period, EMC non-compliances may be recorded in the event of management issues being identified related to the original failure or the subsequent actions undertaken.

(c) Where a licence holder has either not carried out any monitoring of an ELC or has failed to submit a report, this will be considered a 'gross breach'. It will not be counted against the relevant Environmental Management Condition (EMC) attribute.

- (d) A gross breach will be used for the assessment of repeated minor breaches (as defined in 7.6.4 (d)).
- (e) Note that more than one gross breach will be recorded as a significant breach.

**7.6.3 Minor breach** – is a breach of an ELC that does not constitute a gross breach as defined in [7.6.2](#) or a significant breach as detailed in [7.6.5](#). It should be noted that:

- (a) For 'scope' conditions, a minor breach will not be applicable. For example, a non-hazardous landfill site operating as a hazardous waste landfill will be considered a significant breach.
- (b) For licences with two tier limits, there cannot be any individual minor breaches recorded. Exceeding the number of lower tier failures, as indicated in [Table 4](#), will constitute a repeated minor breach as described in 7.6.4.
- (c) For numerical limits with single threshold values, e.g. an instantaneous limit, measured continuously, a number of minor breaches during a rolling 24-hour period will only be counted as one minor breach. Therefore, the maximum number of samples/ results in the year is 365.
- (d) A single event leading to minor breaches of a number of different parameters will be recorded as a separate minor breach against each relevant parameter.
- (e) As stated in 4.9, SEPA aims to avoid double-counting of the same issue but if an ELC breach is deemed to be due to an underlying EMC failure, assessed on basis of annual performance, then this EMC non-conformance may also be recorded.
- (f) An odour event which has not been substantiated as offensive by SEPA officer(s), as required by the condition wording will not be counted as a minor breach, i.e. breaches will not be recorded solely on the basis of complaints received.
- (g) For Process (c) ELCs, all of which refer to **significant** discharges/ effects, there cannot be a minor breach, only a significant breach (harm equivalent to a significant or major environmental event). Less serious effects should be assessed under EMC.

#### **7.6.4 Repeated minor breaches**

This assessment identifies sites with repeated minor breaches of the same ELC for each individual parameter at the same emission/ discharge/ abstraction point. This may apply to both Numeric ELCs and Process ELCs where minor breaches are observed. It should be noted that:

- a) A repeated minor breach may arise due to the exceedance of a statistical compliance requirement specified in the licence, e.g. two-tier point source licences.
- b) A repeated minor breach may arise where a Process ELC is breached four or more times during the assessment period<sup>1</sup>. The exception to this rule is for cage fish farm in-feed medicine related conditions (Process ELC (f). Any specified in-feed treatment chemicals (usage limit)) where the third occasion on which a minor breach is recorded becomes a repeated minor.
- c) Where the licence specifies a single numerical limit with no statistical basis for excluding exceedances, a simple look-up table (Table 4) will be used to ensure proportionality.
- d) For the purposes of calculating a repeated minor breach, any gross breach directly related to that ELC will also be used in the assessment. For example, if the maximum number of allowable minor breaches before it becomes a repeated minor breach is 4 and an ELC has had three minor breaches and one gross breach then the gross breach will be included in the assessment and the overall assessment of that ELC will be a repeated minor breach.
- e) Where a licensed site is inspected (or sampled) only once per year and a minor breach of an ELC is identified, follow-up inspections or samples may be considered to establish whether the issue is ongoing and could lead to repeated minor breaches, except where that sampling/ inspection is part of an agreed improvement plan (see (g) below). Where the ELC refers to an annual limit (eg

- annual volumes), no repeated minor breaches will be identified and the breach would be assessed to be a minor breach on the Compliance Record.
- f) There will be a presumption that a minor breach occurring over a period greater than 24 hours will be counted as an additional minor breach rather than just one breach. However, this may be extended at SEPA's discretion to take into account reasonable courses of action and timescales. For example, in the case of an abatement plant breakdown at a plant, it may be in order to complete a process batch in order to minimise further environmental odour impact.
- g) Where there has been a minor breach of an ELC, further minor breaches of the same condition/parameter may be discounted providing:
- SEPA has agreed in writing an improvement plan which specifies a date by which the breach will be rectified to ensure future compliance; and the improvement plan is complied with; or
  - SEPA has issued an enforcement notice seeking compliance with the condition by a date specified in the notice; and the notice is complied with;
  - There have been no major (Category 1) or significant (Category 2) environmental events relating to that ELC in the intervening period.

In such cases the SEPA officer will only record the initial ELC minor breach. However, should the conditions of the improvement plan or enforcement notice not be complied with, all intervening minor breaches will be recorded in the Compliance Record.

Repeated minor breaches are often linked to underlying environmental management failings. These will be investigated by SEPA, and assessed separately under one or more relevant EMC attributes (see section 7.35).

**7.6.5 Significant breach** – a breach of a licence condition that has caused a major (Category 1) or significant (Category 2) environmental event as set out in Table 5, or is a breach of a scope ELC or more than one gross breach has occurred.

Where a licence condition regulates noise emissions, the definitions of environmental events used for air/ land in [Table 5](#) will be applied to identify significant breaches. For conditions relating to offensive odour, further guidance on what may constitute a significant or major environmental event is provided in [SEPA's 2010 Odour Guidance](#).

## 7.7 Accuracy

Recorded values will be taken at face value unless the licence specifies or references an agreed measurement accuracy which will be taken into account. In these cases, a breach will only occur once a correction has been made for measurement accuracy and any calibration, span or zero checks have been undertaken.

## 7.8 Operator monitoring/data returns

Most SEPA licences generally require licence holder monitoring/ data returns to be submitted by a deadline of one calendar month after the end of the period. For annual assessments, such a deadline is normally 31 January. Any data required on an annual basis and received after the annual deadline specified in the licence will not be taken into account in compliance assessment.

For licences which require annual results to be reported at a point other than 31 January (31 March for Scottish Water water resources) or 'allow' a specified number of lower tier (minor) exceedances within a 'rolling 12 month basis', then only those results relating to the calendar year, and available by 31 January will be used to assess compliance under this scheme.

For point source discharges to water, this could mean that a breach of the permitted number of lower tier exceedances over a 12 month period, which spans across two calendar years eg Oct 2011 –Oct 2012 would not be fully reflected in any interim assessment under this compliance



assessment scheme, as the scheme relates solely to results produced during the calendar year (Jan – Dec).

Data returns will be assessed:

- For timely submission;
- at face value in respect of ELC compliance; and
- under the reporting attribute under Environmental Management Conditions (EMCs) (please refer to 7.36).

### 7.9 Compliance Records

SEPA will aim to record ELC breaches in the Compliance Record as soon as possible after their confirmation by inspection or sample data. The source of information relating to breaches will be specified in the Compliance Record and comments added regarding the date(s) of breaches.

Repeated minor breaches will be assessed at the end of the calendar year, taking into account all available information. However SEPA will provide early warning of risk of repeated minor breaches to licence holders throughout the year.

- 7.10** Where a condition does not require an ELC to be assessed during the calendar year; or that ELC is temporarily not relevant, e.g. monitoring results for a process that has not run during the calendar year; or SEPA has confirmed in writing that it intends to vary the condition [see section 4.3](#), 'not assessed' will be entered in the comments section of the Compliance Record for the condition. In this case, the ELC would be considered to be compliant unless SEPA monitoring during the period demonstrates otherwise.

### 7.11 Fish farm bi-annual monitoring

Marine cage fish farms generally operate on a two-year production cycle and therefore are usually only required to carry out monitoring in the second year of production. Where such monitoring is not required to be carried out during the assessment year, the result of the most recent monitoring will be considered for the purposes of assessment. However given the cyclical nature of the fish production and associated impact on the seabed, SEPA will assume, unless there is other information to the contrary), there has been some recovery of the seabed. Therefore, an unsatisfactory monitoring result from a survey carried out in the year previous to the assessment year will be considered to have recovered adequately to be considered a borderline result in the assessment year. In such cases it will be classified as a minor breach.

Likewise, if the survey the previous year was borderline, this will be considered to have recovered sufficiently by the assessment year to be not considered a breach.

As with any data submission required to assess an ELC, refer to section 7.8 Operator monitoring/ Data Returns.

## Step 3 – Record environmental events

- 7.12** SEPA's classification of environmental events for air, water and land is provided in [Table 5](#). Events classed as major, significant or minor (Categories 1, 2 and 3 respectively) and attributed to the licence holder will be included in the Compliance Record. Only environmental events regulated under the licence, or relevant licence where more than one is held on site, will be recorded under the scheme.

### 7.13 Assessment of events

Where possible, any actual environmental events attributed to the licensed activity will be recorded against the relevant Environmental Limit Condition (ELC).



Where the event cannot be related to a specific ELC, it will be recorded in an additional line in the ELC section of the Compliance Record. This will be labelled as 'environmental harm' if this condition exists in the licence and 'environmental event' where it does not.

- A major (Category 1) or significant (Category 2) environmental event will be assessed as a significant breach under ELC.
- A minor environmental event (Category 3) will be assessed as a minor breach under ELC.
- Repeated minor events will be recorded as repeated minor breaches where the same minor event has occurred four or more times (see Table 3).

**7.14** Where an environmental event arises from multiple sources on the same licence, such as odour, the event will be aggregated since the odour condition relates to the whole site, regardless of the source.

#### **7.15 Information in the Compliance Record**

To maintain up-to-date records, events must be recorded in the Compliance Record as soon as possible after their confirmation.

**Table 3: Environmental Limit Conditions (ELCs) breaches**

| Type of ELC condition and monitoring method                                                                                                                  | Minor breach                                                        | Repeated minor breach                                                                                                                   | Gross breach                                                                                                                                                                             | Significant breach                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| <b>Scope ELCs</b>                                                                                                                                            |                                                                     |                                                                                                                                         |                                                                                                                                                                                          |                                                                                                                      |
| Relating to scope specified in the licence (e.g description and location of installation, primary purpose of activities, waste types, scale of impoundments) | N/A                                                                 | N/A                                                                                                                                     | Failure to monitor or submit a report which would allow the licence holder to demonstrate compliance with a Scope ELC                                                                    | Fails to comply with scope condition or out with scope of licence                                                    |
| <b>Numeric ELCs with a single licensed threshold value</b>                                                                                                   |                                                                     |                                                                                                                                         |                                                                                                                                                                                          |                                                                                                                      |
| (a) Numerical limits for air or effluent (except pH or those associated with an RSA licence)                                                                 | Any breach of licensed limit                                        | Number of planned measurements breaching the licensed limit is greater than the maximum number specified in the look-up table (Table 4) | More than twice the limit specified in licence, or monitoring or reporting failure of an ELC                                                                                             | Second and subsequent gross breach                                                                                   |
| (b) Numerical limits for pH                                                                                                                                  | Less than one pH unit change from limit                             |                                                                                                                                         | More than 1 pH unit change from limit                                                                                                                                                    |                                                                                                                      |
| (c) Temperature limits (not including RSA)                                                                                                                   | Exceeds limit by <5°C                                               |                                                                                                                                         | Exceeds limit by >5°C                                                                                                                                                                    |                                                                                                                      |
| (d) Fish Farm biomass/stocking density                                                                                                                       | Any breach up to and including 10% of the limit                     | Four or more months exceeding limit up to and including 10%                                                                             | More than 10% exceedance of limit or monitoring/reporting failure                                                                                                                        | or                                                                                                                   |
| (e) Numerical limits for noise and lighting                                                                                                                  | Any breach of licensed limit                                        | Four or more minor breaches                                                                                                             | Monitoring or reporting failure only                                                                                                                                                     | any breach of limits which gives rise to a Category 1 or 2 environmental event.                                      |
| (f) Numerical limits for abstraction rates                                                                                                                   | Exceeds limit by no more than 20%                                   | Number of measurements breaching the licenced limit is greater than the maximum number specified in the look-up table (Table 4)         | Exceeds limit by more than 20%. Failure to monitor or submit a report which would allow the licence holder to demonstrate compliance with a Numeric ELC                                  | or                                                                                                                   |
| (g) Numerical limits for residual, compensation and maintained flows and storage/retention/release volumes                                                   | Flow / level / volume up to 20% lower than specified in the licence | Number of measurements breaching the licenced limit is greater than the maximum number specified in the look-up table (Table 4)         | Flow/level/volume more than 20% lower than specified in licence. Failure to monitor or submit a report which would allow the licence holder to demonstrate compliance with a Numeric ELC | for RSA discharges a breach of authorised/registered limit which gives rise to a Category 1 or 2 environmental event |
| (h) Numerical limits for RSA discharges                                                                                                                      | N/A                                                                 | N/A                                                                                                                                     | Any breach of authorised/registered limit                                                                                                                                                |                                                                                                                      |
| <b>Numeric ELCs licensed according to a specified statistical distribution</b>                                                                               |                                                                     |                                                                                                                                         |                                                                                                                                                                                          |                                                                                                                      |

|                                                                                                                                                                                                                                                                                       |                                                                                                                                                              |                                                                                                                                                                                                 |                                                                                                                                |                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| (a) Air ELVs with licensed upper/lower limits, eg licences under the Waste Incineration Directive                                                                                                                                                                                     | N/A                                                                                                                                                          | Number of planned samples breaching the lower tier limit is greater than the maximum number of exceedances allowed in the look-up table (as specified in the licence and summarised in Table 4) | Any breach of upper limit (typically with 100% compliance level) or monitoring or reporting failure of an ELC                  | Second and subsequent gross breach ( e.g breach of the upper tier limit)                       |
| (b) Aqueous effluent with two-tier consent                                                                                                                                                                                                                                            | N/A                                                                                                                                                          |                                                                                                                                                                                                 | Any breach of upper tier limit specified in licence or monitoring or reporting failure of an ELC                               | or<br>any breach of limits which gives rise to a category 1 or 2 environmental event.          |
| <b>Type of ELC condition and monitoring method</b>                                                                                                                                                                                                                                    | <b>Minor breach</b>                                                                                                                                          | <b>Repeated minor breach</b>                                                                                                                                                                    | <b>Gross breach</b>                                                                                                            | <b>Significant breach</b>                                                                      |
| <b>Process ELCs</b>                                                                                                                                                                                                                                                                   |                                                                                                                                                              |                                                                                                                                                                                                 |                                                                                                                                |                                                                                                |
| (a) Factors indirectly controlling emissions to any media including production/processing conditions, waste volumes and also timing (see 7.2.4 (a)); for abstraction and impoundments – location, periods, timing and patterns of activities and provision of fish passes and screens | Any breach of licence condition                                                                                                                              | Four or more minor breaches                                                                                                                                                                     | Failure to monitor or submit a report which would allow the Licence holder to demonstrate compliance with a Process ELC        | A breach which results in a Major (Category 1) or significant (Category 2) environmental event |
| (b) Related to presence or absence in the environment (eg offensive odour, litter, noise/vibration) and where no numerical limit has been set.                                                                                                                                        |                                                                                                                                                              |                                                                                                                                                                                                 |                                                                                                                                |                                                                                                |
| (c) No Significant oil, foam, no environmental harm etc*                                                                                                                                                                                                                              | N/A                                                                                                                                                          | N/A                                                                                                                                                                                             | N/A                                                                                                                            |                                                                                                |
| (d) Related to any specified bath treatment chemical in cage fish farming                                                                                                                                                                                                             | N/A                                                                                                                                                          | N/A                                                                                                                                                                                             | Any exceedance of licensed amount                                                                                              |                                                                                                |
| (e) Factors relating to RSA disposals including authorised disposal routes/systems, decay storage limits and tidal windows.                                                                                                                                                           | N/A                                                                                                                                                          | N/A                                                                                                                                                                                             | Any breach of authorised/registered limit                                                                                      |                                                                                                |
| (f) Related to any specified in-feed treatment chemical in cage fish farming                                                                                                                                                                                                          | Any breach up to and including 10% of the quantity of in-feed medicine approved by SEPA for any individual treatment i.e., a dosage of between 121% and 132% | Three or more minor breaches                                                                                                                                                                    | Any breach over 10% of the quantity of in-feed medicine approved by SEPA for any individual treatment i.e., a dosage over 132% |                                                                                                |
| <b>Environmental events (classified according to Table 5)</b>                                                                                                                                                                                                                         |                                                                                                                                                              |                                                                                                                                                                                                 |                                                                                                                                |                                                                                                |
| Any environmental event attributed to the licence holder and not counted under a specific ELC                                                                                                                                                                                         | Minor (Category 3) environmental event                                                                                                                       | Four or more minor breaches                                                                                                                                                                     | N/A                                                                                                                            | Major (Category 1) or significant (Category 2) environmental event                             |

**Note:** Where particular data assessment requirements are specified, the licence condition will always take precedence over any compliance rules described in this manual.

- Releases not causing a significant or major environmental event (as per Table 5) should be assessed under an appropriate EMC.

**Table 4:  
table for  
minor**

| <b>Number of measurements<sup>2</sup> in a 12 month period</b> | <b>Number of minor breaches not constituting a repeated minor breach<sup>3</sup></b> |
|----------------------------------------------------------------|--------------------------------------------------------------------------------------|
| 1 – 7                                                          | 1                                                                                    |
| 8 – 16                                                         | 2                                                                                    |
| 17 – 28                                                        | 3                                                                                    |
| 29 – 40                                                        | 4                                                                                    |
| 41 – 53                                                        | 5                                                                                    |
| 54 – 67                                                        | 6                                                                                    |
| 68 – 81                                                        | 7                                                                                    |
| 82 – 95                                                        | 8                                                                                    |
| 96 – 110                                                       | 9                                                                                    |
| 111 – 125                                                      | 10                                                                                   |
| 126 – 140                                                      | 11                                                                                   |
| 141 – 155                                                      | 12                                                                                   |
| 156 – 171                                                      | 13                                                                                   |
| 172 – 187                                                      | 14                                                                                   |
| 188 – 203                                                      | 15                                                                                   |
| 204 – 219                                                      | 16                                                                                   |
| 220 – 235                                                      | 17                                                                                   |
| 236 – 251                                                      | 18                                                                                   |
| 252 – 268                                                      | 19                                                                                   |
| 269 – 284                                                      | 20                                                                                   |
| 285 – 300                                                      | 21                                                                                   |
| 301 – 317                                                      | 22                                                                                   |
| 318 – 334                                                      | 23                                                                                   |
| 335 – 350                                                      | 24                                                                                   |
| 351 – 365                                                      | 25                                                                                   |

**Look-up  
repeated  
breaches**

<sup>2</sup> A 'measurement' refers to a numerical value obtained by sampling or monitoring undertaken by SEPA and/or the licence holder or third party.

<sup>3</sup> Repeated minor breaches are counted on each individual parameter at the same emission/discharge/abstraction point.

The maximum number of measurements considered for minor breach compliance is 365. For example, an instantaneous limit may be continuously monitored and may have a number of minor exceedances in a rolling 24-hour period. This will be considered one minor breach (see [7.6.3](#)). Therefore the maximum number of measurements is 365.

**Table 5 SEPA's environmental event classification – Water, Air and Land**

| Media                                       | Category 1 – Major                                                                                                                                  |                                                                                   | Category 2 – Significant                                                                                                                                     |                                                                                                                                        | Category 3 – Minor                                                                                                                                       |                                                                          |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
|                                             | Water                                                                                                                                               | Air*, land                                                                        | Water                                                                                                                                                        | Air*, land                                                                                                                             | Water                                                                                                                                                    | Air*, land                                                               |
| <b>Length of watercourse/ area impacted</b> | Environmental damage to the ecosystem over a length >1km or an area >1km <sup>2</sup>                                                               |                                                                                   | Environmental damage to the ecosystem over a length <1km or an area <1km <sup>2</sup>                                                                        |                                                                                                                                        | Localised and limited environmental damage to the ecosystem                                                                                              |                                                                          |
| <b>Environmental impact</b>                 | Fish kill >100 and/or Contamination is more than 10 times the Environmental Quality Standard (EQS)                                                  | Widespread and long-term harm to the environment Substantial harm to human health | Fish kill of 10–100 and/or Contamination is more than two times the EQS                                                                                      | Long-term but localised harm to the environment, or widespread but short-term harm to the environment Minor or no harm to human health | Fish kill <10 and/or Contamination exceeds the EQS                                                                                                       | Short-term and localised harm to the environment No harm to human health |
| <b>Amenity impact</b>                       | Extensive visible pollution or littering of watercourse and/or Any loss or closure of a designated bathing/shellfish water or drinking water source | Substantial impairment of amenity for a prolonged period                          | Significant visible pollution or littering of watercourse and/or Significant reduction in amenity value (i.e. urgent notification of downstream abstractors) | Substantial impairment of amenity for a short period or lesser impairment of amenity for a prolonged period                            | Minor visible pollution or littering of watercourse and/or Reduction in amenity value (i.e. routine (non-urgent) notification of downstream abstractors) | Minor impairment of amenity for a short period or not at all             |
| <b>Economic impact</b>                      | Extensive damage to and/or closure of agricultural or other commercial activities                                                                   | Extensive damage to and/or closure of commercial activities                       | Significant damage to agricultural or other commercial activities                                                                                            | Significant damage to commercial activities                                                                                            | Agricultural or other commercial activities affected                                                                                                     | Minor or no damage to commercial activities                              |

\*To assess impacts as a result of offensive odour please refer to SEPA's Odour Guidance

Table 6 is a summary of guidance for environmental events involving radioactive substances. It relates to both radioactive material and radioactive waste as defined by the Radioactive Substances Act 1993, as amended, as well as substances which are believed to be radioactive and which are subsequently proven to be excluded from the Act. The event may or may not involve persons who hold a registration under the Act or premises where an authorisation under the Act is in force.

**Table 6 SEPA’s environmental event classification - Radioactive Substances**

|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Category 1- major</b></p>       | <p>An event involving radioactive substances is considered to be major where:</p> <ul style="list-style-type: none"> <li>• the total dose to a member of the public<sup>2</sup> may <b>exceed 5 mSv/y<sup>3</sup></b>; or</li> <li>• there is widespread radioactive contamination requiring counter-measures; or</li> <li>• considerable secondary radioactive waste has been generated as a result of the event; or</li> <li>• there is major impairment to commercial activities in the vicinity of the event; or</li> <li>• there is major adverse effect on the amenity value in the vicinity of the event.</li> </ul> <p>“Widespread contamination” would typically involve an event where the contamination could not be/has not been readily contained, such as a large discharge to atmosphere following a fire.</p> <p>“Considerable secondary radioactive waste” would typically mean amounts greater than 5m<sup>3</sup> of solid, longer-lived LLW which require disposal to an authorised person.</p> <p>“Major impairment” relating to commercial activities would usually involve the closure of multiple businesses in the vicinity of the event.</p> <p>“Major adverse effect” relating to amenity value would typically be an event which prohibits the normal range of activities at an important recreation activity, event or public space.</p>                                                                                                                                                                                                                                                                                           |
| <p><b>Category 2- significant</b></p> | <p>An event involving radioactive substances is considered to be significant where:</p> <ul style="list-style-type: none"> <li>• the total dose to a member of the public falls <b>between 1 mSv/y and 5 mSv/y</b>; or</li> <li>• it involves a high-activity sealed source (HASS)<sup>4</sup>; or</li> <li>• it involves an unsealed source with an activity greater than its D value; or</li> <li>• there is significant spread of contamination; or</li> <li>• significant secondary radioactive waste has been generated as a result of the event;</li> </ul> <p style="text-align: center;">or</p> <ul style="list-style-type: none"> <li>• there is significant disturbance to commercial activities in the vicinity of the event; or</li> <li>• there is a significant reduction in the amenity value of the area affected.</li> </ul> <p>“Significant contamination” would typically involve an event where the contamination can be contained and access to it controlled but which has spread beyond the area where the radioactive substance is normally kept.</p> <p>“Significant secondary radioactive waste” would typically mean amounts of less than 5m<sup>3</sup> of longer-lived LLW which require disposal to an authorised person.</p> <p>“Significant disturbance” relating to commercial activities would usually only involve disruption to economic activity rather than closure of the businesses affected.</p> <p>“Significant reduction” in relation to amenity value would typically mean that the event significantly restricts the local population’s use of an amenity or recreation area for a period of one or more days.</p> |
| <p><b>Category 3- minor</b></p>       | <p>An event involving radioactive substances is considered to be minor where:</p> <ul style="list-style-type: none"> <li>• the total dose to a member of the public falls <b>between 10 uSv/y and 1 mSv/y</b>; or</li> <li>• it involves a sealed source of similar level of hazard (SSLPH); or</li> <li>• Negligible secondary radioactive waste has been generated as a result of the event;</li> </ul> <p style="text-align: center;">or</p> <ul style="list-style-type: none"> <li>• Minor spread of contamination; or</li> <li>• Minor impairment to commercial activities in the vicinity of the event; or</li> <li>• Minor reduction in the amenity value of the area affected.</li> </ul> <p>“Negligible secondary radioactive waste” would typically mean items such as gloves or short-lived waste which can be expected to decay away in a reasonably short period of time (e.g. Tc-99m).</p> <p>“Minor contamination” would typically involve an event where the contamination has been contained to the room in which the radioactive substance is normally kept and access to the room is controlled.</p> <p>“Minor impairment” relating to commercial activities would usually involve some disruption for a short period of time without any significant economic loss to the businesses affected.</p> <p>“Minor reduction” in relation to amenity value would typically mean a localised or transitory effect on local amenities that aren’t necessarily considered to be sensitive</p>                                                                                                                                                        |

|                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                         | receptors, such as sports pitches. Normally, a small proportion of the amenity area would be affected and people would still be using the area despite the event.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Category 4-other</b> | <p>An event involving radioactive substances is considered to be “other” where:</p> <ul style="list-style-type: none"> <li>• The total dose to a member of the public falls <b>below 10 uSv/y</b>; or</li> <li>• No secondary radioactive waste has been generated as a result of this event; or</li> <li>• No spread of contamination; or</li> <li>• It is a notified event where there is no environmental impact or adverse consequence for the commercial activities or amenity value of the local area; or</li> <li>• No impairment to the commercial activities in the area of the event; or</li> <li>• No impact on the local amenity; or</li> <li>• The event is unsubstantiated.</li> </ul> <p>“Notified event” would usually mean one where the certificate holder informs SEPA that a technical or administrative condition of the certificate may have been contravened or where the potential for environmental, economic, amenity impact did not occur (e.g. forewarning of possible failure).</p> <p>“Unsubstantiated” would typically mean those events which were reported, usually by a member of the public, but were subsequently unable to be verified (e.g. fly tipping of radioactive waste).</p> |

## Step 4 – Overall Environmental Limit Conditions (ELCs) compliance band

### 7.16 Overall ELCs assessment

The overall ELC assessment is the worst assessment recorded for any individual ELC, as follows:

- no breaches;
- minor breach(es) **or** one gross breach;
- repeated minor breaches **or** more than one gross breach **or** significant breach(es).

### 7.17 Information in the Compliance Record

At the end of the calendar year, the overall ELCs compliance band will be recorded in the Compliance Record.

## Step 5 – Assess Environmental Management Condition (EMC) attributes

### 7.18 Relevant EMC’s attributes

A standard list of attributes will be used to assess the remaining conditions in the licence. These attributes are referred to as Environmental Management Conditions (EMC’s) and relate to three important aspects of environmental management:

- management;
- plant/ infrastructure;
- reporting and recording.

EMC attributes will be presented this way in the Compliance Record.

**7.19** Attributes will be selected for inclusion in the EMCs assessment if they are specifically referred to in the licence or are required under best available techniques (BAT). For Pollution Prevention and Control (PPC), consideration will be given to requirements from BAT under all relevant attributes, even where there is no specific condition related to that attribute in the permit.



- 7.20** Regime-specific guidance (Annexes 1–8) indicates which EMC attributes are considered relevant for particular activities or licence complexity. The guidance for each attribute will depend on the specifics of the site. It will be the responsibility of the individual SEPA officer to determine which are relevant to assess against the particular attribute.
- 7.21** For simple licences and in certain regulatory regimes, some EMCs attributes will not be applicable because there are no licence conditions relating to the attribute. In this case, the attribute will be deleted from the Compliance Record. For example, if there is no licence condition requiring reports to be sent to SEPA, this attribute would be considered ‘not applicable’ and will not be recorded in the Compliance Record.
- 7.22** Where it has not been possible or appropriate to assess a particular EMC attribute during the calendar year, ‘not assessed’ will be entered in the comments section of the Compliance Record for the attribute.
- 7.23** The list of EMC’s will be determined according to the Compliance Record developed for each regulatory regime (Annexes 1–8). No additional EMC attributes can be added by inspectors to compliance records.
- 7.24** Specific regime guidance is provided Annexes 1–8 for assessing non-compliances against different attributes. As EMC assessment is on an annual basis, those attributes with major and/or minor non-compliances will be entered in the Compliance Record at the end of the assessment period taking account of yearlong performance.
- 7.25** Following inspections, non-compliances with attributes will be listed in the inspection report and an assessment of whether they are major or minor non-compliances, both in the context of the situation at the time of the inspection (‘Inspection results’), and on a cumulative basis for the year up to that point in time (‘Overall EMC assessment’). These may not be the same. As the assessment is on an annual basis the ‘overall EMC assessments’ are interim assessments and may change depending on the licence holders performance throughout the rest of the assessment period. Any disagreements should be dealt with through the relevant SEPA officer and escalated through the officer’s line manager where appropriate.
- 7.26** Based on inspection reports and the regime guidance in the annexes to this manual, each attribute will be assessed as being one of the following:
- compliant;
  - minor non-compliance;
  - major non-compliance.
- 7.27** Where licences have a number of conditions that relate to one or more of the EMC attributes, the assessment will be against the attribute and not against each individual condition.
- 7.28** Some attributes may have aspects that appear in all three columns (compliant, minor and major non-compliance). In such situations, it will be for the individual officer to determine the fairest and most reasonable assessment based on performance as a whole throughout the year. For example, under ‘Staffing’ a site may have an excellent Environmental Management System (EMS) and 20 staff who all are well trained. On one occasion, it had to operate with lower staffing levels than required and, on another occasion, a member of staff carried out a duty contrary to procedure resulting in an environmental release. While comments may appear under all three columns, the licence holder may be considered to be broadly compliant with the attribute.

**7.29** As EMCs will be assessed over the period of a year, it is important that operators respond effectively during the assessment year to deal with any aspect that may result in a major or minor non-compliance.

For example, under Annex 1 for large PPC sites, monitoring equipment that is subject to few breakdowns may be considered compliant. But if the operator does not take steps to ensure the equipment operates effectively and problems continue, then it may be considered a minor non-compliance. This may be escalated to a major non-compliance if the equipment is not operational for extended periods of time. Thus it is vital that an operator responds to non-compliances to minimise their impact on the overall assessment.

**7.30** SEPA will take account of proportionality in assessing EMC requirements. For example, management systems are expected to be less developed for low risk activities than for high risk activities.

### **7.31 Plans required under licence**

Plans that are required and referred to under the licence, e.g. improvement/ upgrade plans under PPC, working plans for waste sites; operating plans, abstraction and fish monitoring plans for certain water resource sites) will be included in compliance assessments in terms of their submission, adequacy and implementation as required by the licence.

### **7.32 Copy and knowledge of licence**

If companies transpose relevant licence conditions into procedures for operational staff, in an appropriate manner for each activity, these procedures will be considered to be an appropriate substitute for knowledge of the licence for those members of staff.

### **7.33 Upgrades**

Where plant or infrastructure upgrades have been agreed with SEPA and licensed through a condition with a future date or SEPA has indicated in writing that it intends to vary a licence condition, compliance with EMC attributes and associated Environmental Limit Conditions (ELCs) will be assessed only after the specified date.

### **7.34 Incidents**

Actual environmental events relating to a licence will be assessed on both ELCs, according to the event category, and a principal EMC attribute, according to the licence holder's response.

Incidents e.g. process deviations or abnormal operations that do not result in an actual environmental event or breach of ELC will be assessed only on EMC according to the licence holder's response.

Although an incident itself may be recorded against a principal EMC attribute, further investigation may reveal non-compliances with other attributes. These may also be recorded detailing additional evidence other than that relating to the incident.

### **7.35 Reporting**

Where there is a late submission of a report required to assess compliance with an ELC or the licence conditions require licence holders to carry out monitoring other than that required to assess compliance with an ELC and they fail to report the results in accordance with the licence requirements, the assessment covering that period will record this failure under the relevant EMC reporting attribute.

If the reports submitted are of unacceptable quality it will also be considered a non-compliance under the EMC reporting attribute.

### **7.36 Information in the Compliance Record**

At the end of the calendar year, assessments for all EMC attributes will be recorded in the Compliance Record. If not assessed, these will be assumed to be compliant.

## **Step 6 – Overall environmental management condition (EMC) compliance band**

**7.37** To derive the overall EMC compliance band, the following rules will be applied:

### **7.37.1 Low performance:**

- Any assessment of major non-compliance under any attribute; and/or
- More than half the EMC attributes are assessed as minor non-compliances.

### **7.37.2 High performance:**

- For licences with five EMC attributes or less, all attributes must be compliant to achieve high performance.
- For licences with 6–10 attributes, the overall EMC assessment is high performance where there are no major non-compliances and up to a maximum of one EMC attribute is assessed as a minor non-compliance.
- For licences with more than 10 attributes, the overall EMC assessment is high performance where there are no major non-compliances and up to a maximum of two EMC attributes are assessed as minor non-compliances.

### **7.37.3 Medium performance:**

- For all other licences that do not fall into the low or high category.

### **7.38 Information in the Compliance Record**

At the end of the calendar year, the overall EMCs assessment will be recorded in the Compliance Record.

## **Step 7 – Overall compliance band**

**7.39** The compliance matrix, see [Figure 1](#) enables an overall compliance band to be determined using the overall Environmental Limit Conditions (ELCs) and Environmental Management Conditions (EMCs) compliance bands. The six overall compliance bands enable a licence holder's compliance with their licence to be tracked year on year.

## Acronyms and glossary

|                            |                                                                                                                                                                                                                   |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Activity</b>            | Operational process or environmental hazard regulated by SEPA                                                                                                                                                     |
| <b>Attribute</b>           | Particular aspect of environmental management considered under EMC at a site (eg the staffing attribute)                                                                                                          |
| <b>BAT</b>                 | Best Available Techniques                                                                                                                                                                                         |
| <b>BOD</b>                 | biochemical oxygen demand                                                                                                                                                                                         |
| <b>BPM</b>                 | Best Practicable Means                                                                                                                                                                                            |
| <b>Breach</b>              | Exceedance or non-compliance with an environmental limit condition                                                                                                                                                |
| <b>CAR</b>                 | Controlled Activities Regulations                                                                                                                                                                                 |
| <b>COMAH</b>               | Control of Major Accident Hazards                                                                                                                                                                                 |
| <b>CQA</b>                 | Construction Quality Assurance                                                                                                                                                                                    |
| <b>ELC</b>                 | Environmental Limit Condition                                                                                                                                                                                     |
| <b>ELV</b>                 | Emission Limit Value                                                                                                                                                                                              |
| <b>EMC</b>                 | Environmental Management Condition                                                                                                                                                                                |
| <b>EMS</b>                 | Environmental Management System                                                                                                                                                                                   |
| <b>Environmental event</b> | An incidence of an environmental impact on air, water, land or radioactive emissions recorded by SEPA                                                                                                             |
| <b>EPA 1990</b>            | Environmental Protection Act 1990                                                                                                                                                                                 |
| <b>EQS</b>                 | Environmental Quality Standard                                                                                                                                                                                    |
| <b>GBR</b>                 | General Binding Rule                                                                                                                                                                                              |
| <b>Licence</b>             | Term used in this consultation to refer to any licences, permits, authorisations and registrations covered by the compliance scheme                                                                               |
| <b>Licence holder</b>      | Company or person against which the licence is registered. May also be referred to as the operator or responsible person.                                                                                         |
| <b>LLWR</b>                | Low Level Waste Repository (near Drigg)                                                                                                                                                                           |
| <b>MPS</b>                 | Monitoring Protocol Specification                                                                                                                                                                                 |
| <b>NGR</b>                 | National Grid Reference                                                                                                                                                                                           |
| <b>Non-compliance</b>      | An issue identified by SEPA relating to a licence holder's failure to conform to a licence condition                                                                                                              |
| <b>OPA</b>                 | Operator Performance Assessment. Structured assessment by SEPA inspectors on how well activities are managed based on evidence provided by operators. The proposed compliance assessment scheme will replace OPA. |
| <b>PHA</b>                 | Pollution Hazard Appraisal. This makes an assessment of the nature and potential hazard of the operations undertaken.                                                                                             |
| <b>PPC</b>                 | Pollution Prevention and Control (Scotland) Regulations 2000                                                                                                                                                      |
| <b>PSWP</b>                | Permitted Substances Working Plan                                                                                                                                                                                 |
| <b>PVR</b>                 | Petrol Vapour Recovery                                                                                                                                                                                            |
| <b>QE</b>                  | qualified expert                                                                                                                                                                                                  |
| <b>QNL</b>                 | Quarterly Notification Level                                                                                                                                                                                      |
| <b>Regime</b>              | regulatory regimes (ie PPC, CAR, WML, RSA)                                                                                                                                                                        |
| <b>RSA</b>                 | Radioactive Substances Act                                                                                                                                                                                        |
| <b>Site</b>                | Term used to refer to a group of activities regulated under a single licence by SEPA                                                                                                                              |
| <b>SQEP</b>                | Suitably Qualified and Experienced Person                                                                                                                                                                         |
| <b>SSLPH</b>               | Source of Similar Level of Potential Hazard                                                                                                                                                                       |
| <b>WAL</b>                 | weekly advisory level                                                                                                                                                                                             |
| <b>WML</b>                 | Waste Management Licensing                                                                                                                                                                                        |
| <b>WOPA</b>                | Waste Operator Performance Assessment                                                                                                                                                                             |