**Major non-compliance – draft definitions**

**Developed following previous public consultations and stakeholder engagement (2015/2017)**

* **To be used from April 2023**

1. **Major consequences outside of site (or risk of): conditions set to protect the environment or human health and wellbeing**

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| **Authorisation condition** | **Major non-compliance** |
| Any authorisation condition | Non-compliance causes:   * category I or II event * downgrading of annual water or air classification; or * Major adverse trend for groundwater. |
| Descriptive conditions: no significant oil, foam, litter, noise and odour outside of site. | Non-compliance causes category I or II event |
| Numeric single-tier chemistry limits set to achieve environmental standards | More than twice the limit specified in authorisation (if applicable per regime)  Exceptions:   * pH = 2 breaches where limit exceeded by >1 unit * Temperature = 2 breaches where temperature exceeded by >5oC   *Excludes freshwater or marine pen fish farms (covered below) but does apply to land based aquaculture facilities with a point source discharge.* |
| Two-tier numeric limits set to achieve environmental standards (set according to a specified statistical distribution). | Any breach of upper-tier limit |
| Water resources (abstraction) | Abstraction rates exceed limits by more than 20%  25 or more breaches of less than 20% abstraction limit |
| Water resources (abstraction under drought conditions) | Breach of any temporary restriction on abstraction during a water scarcity event |
| Water resources mitigation flows (e.g. compensation flows, hands off flows and freshets) | Mitigation flows are less than 80% of the specified flows.  25 or more breaches of mitigation flows less than 20% (i.e. between 80-100% of specified flows)  Deliberate non-compliance with a mitigation flow  Non delivery of freshet where sufficient water resource available. |
| Authorised medicines and substances used in aquaculture | Any medicine or substance not administered as specified – causing or posing the risk of causing a  category I or II event |
| Limits on biomass, fish production and/or phosphorus discharged in aquaculture. | Exceedance of limits by 10% |
| Four or more months exceeding the biomass limit up to and including 10% |
| Numeric limits for **radioactive substances** in authorisations and registrations under Environmental Authorisations (Scotland) Regulations 2018 (EASR) | Any exceedance of site limit. |
| Limit on the amount of waste that can be accepted, stored or treated on a site | Exceeded to the extent that the site is unable to manage the material in an effective manner – causing or posing the risk of causing a category I or II event |

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| **Authorisation condition** | **Major non-compliance** |
| Marine pen fish farm location | Pen group located more than 100m (old framework) or 180m (new framework) from licensed position. |
| Freshwater pen fish farm location | Fish farm not as specified in licence |
| Pen fish farm species | Growing a species with a different species factor to that in the licence for marine sites or any different species for freshwater sites. |
| Impoundment: provision of fish pass and screens | Fish pass or screen either not provided or not operating. |
| Waste outside the authorised area | Deposition of waste outside the authorised area (e.g. site boundary or in case of landfill, outside lined cells) |

1. **Scope of site**
2. **Understanding of site/activity compromised**

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| **Authorisation condition** | **Major non-compliance** |
| Requirement to report incidents (either in operation of plant or environmental impacts). | Failure to notify SEPA of an incident that had the potential to cause category I or II event |
| Requirement to submit routine data (records, report, data) | Failure to make a routine planned data return of adequate quality within three months |
| Marine pen fish farm surveys | Survey non-compliant, survey inadequate, or survey not undertaken |

1. **Overall management of site**

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| **Authorisation condition** | **Major non-compliance** |
| Compliance with authorisation conditions | Repeat condition breaches which cumulatively equate to major non-compliance |
| Conditions covering management of site, infrastructure, technical competence, equipment or training | Causing or posing the risk of causing a category I or II event |
| Conditions covering management of hazardous material | Risk of accident – causing or posing the risk of causing a category I or II event |
| Fallow period at marine pen fish farms | Continuous stocking between growth cycles with no fallow periods. |

1. **Unauthorised activities**

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| **Contravention** | **Major non-compliance** |
| Undertaking a regulated activity without authorisation | Undertaking a regulated activity at authorised site without authorisation |
| Environmental event | Causes a   * category I or II event; or * downgrading of annual water or air classification; or * Major adverse trend for groundwater.   *\*do not need evidence a classification site is downgraded, could rely on modelling to predict area of impact, and/or test if it breaches spatial standards.*  *Previous guidance to assess major for descriptive conditions = equivalent to a category 1 or 2 environmental event.* |

1. **Financial non-compliance**

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| **Contravention** | **Major non-compliance** |
| Non-payment of subsistence fees | Escalation to debt collection or if debt goes into next financial year |