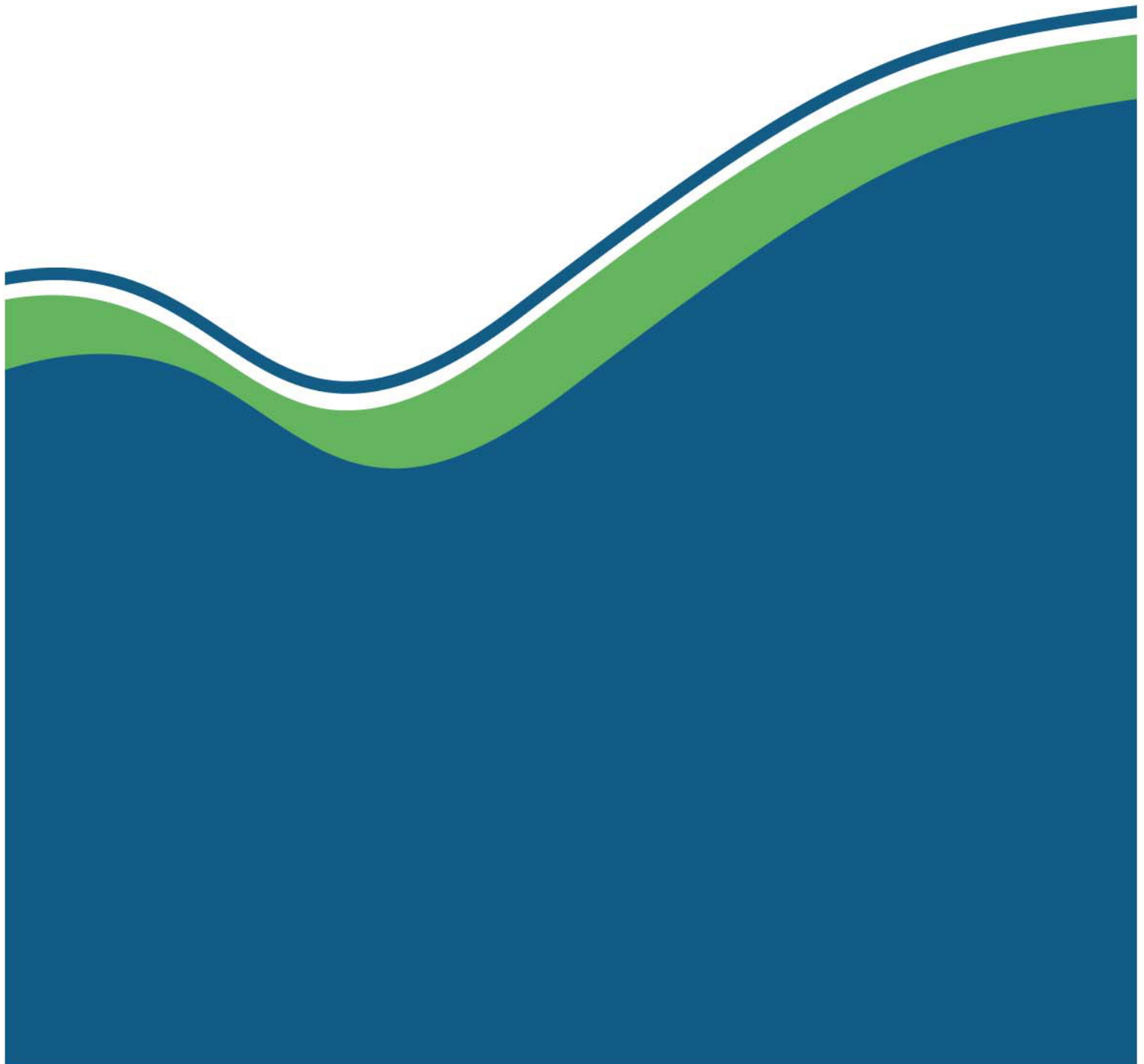


SEPA's Revised Compliance Assessment Scheme 2018



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Foreword

One Planet Prosperity – Our Regulatory Strategy sets out the steps we will take to help create a successful one-planet economy in Scotland.

Compliance with environmental obligations is an important part of this Strategy. It is non-negotiable. The revised Compliance Assessment Scheme 2018 explains how we propose to assess and report on the compliance of businesses with their environmental obligations.

Bringing all of those we regulate into compliance is the first step in our work to support business to deliver more sustainable and profitable businesses practices. We expect businesses to be fully compliant with their environmental obligations and we will use the results of compliance assessment to direct our resources to take firm action to drive compliance. We hope that others will also use the compliance information that we provide to inform their decision-making when they consider engaging with individual businesses.

Because compliance assessment has such an important reputational impact upon a regulated operator we have constructed the revised Scheme to ensure that it is simple and easy to understand and provides a focus on important compliance issues.

Terry A'Hearn

Chief Executive

1. Introduction

What is compliance assessment?

- 1.1 SEPA issues a range of environmental authorisations designed to control activities that could, if uncontrolled, lead to environmental impacts. Compliance with these authorisations is important to protect the environment, human health and wellbeing, and to promote a consistent level of environmental obligations across operators. We are also responsible for ensuring compliance against a wide range of other environmental obligations.
- 1.2 One of SEPA's main duties is to determine how well an operator is complying with their environmental obligations. We call this process 'Compliance Assessment' and we determine this by using rules set out in our Compliance Assessment Scheme (CAS).
- 1.3 SEPA has measured compliance against permit conditions using its CAS since 2009. This scheme was developed to provide a common framework for compliance assessment across several regulatory regimes covering a wide range of sites. The scheme was phased-in by regime over a number of years to cover approximately 10,000 sites.
- 1.4 In September 2015, we [consulted](#) on proposals to review SEPA's Compliance Assessment Scheme (CAS) and we have used the [feedback](#) to help design the proposals upon which we are now consulting.
- 1.5 We aim to build on the best points of the current scheme to make CAS simpler, fairer, more useful and relevant for those we regulate. We intend to link the level of compliance to SEPA's charging scheme so that those with poor levels of compliance contribute to the additional costs that they create which other charge payers end up supporting. These proposals are presented in a separate [charging scheme consultation](#)¹.
- 1.6 This consultation will form the basis of the CAS methodology that SEPA staff will use to make decisions about compliance. The CAS methodology will be available on SEPA's website allowing operators to have an informed discussion with SEPA staff.

Why do we assess compliance?

- 1.7 The information produced by CAS allows us to direct our resources more efficiently, supporting those operators that meet their environmental obligations and importantly to target our efforts on the minority that are in non-compliance.
- 1.8 SEPA publishes the compliance records of operators and this provides valuable information for others who have an interest in the companies that we regulate. We consider that a business's failure to comply with environmental obligations should be an important reputational and economic consideration.
- 1.9 Compliance Assessment information should inform:
 - consumer demand for environmental credentials;

¹ <https://consultation.sepa.org.uk/evidence-and-flooding/charging2018/>

- investor requirements for environmental performance;
- supply-chain requirements for environmental performance;
- assessment by external rating bodies, trade associations and membership standards;
- expectations of potential employees about environmental performance; and
- social scrutiny e.g. communities, residents, NGOs, media.

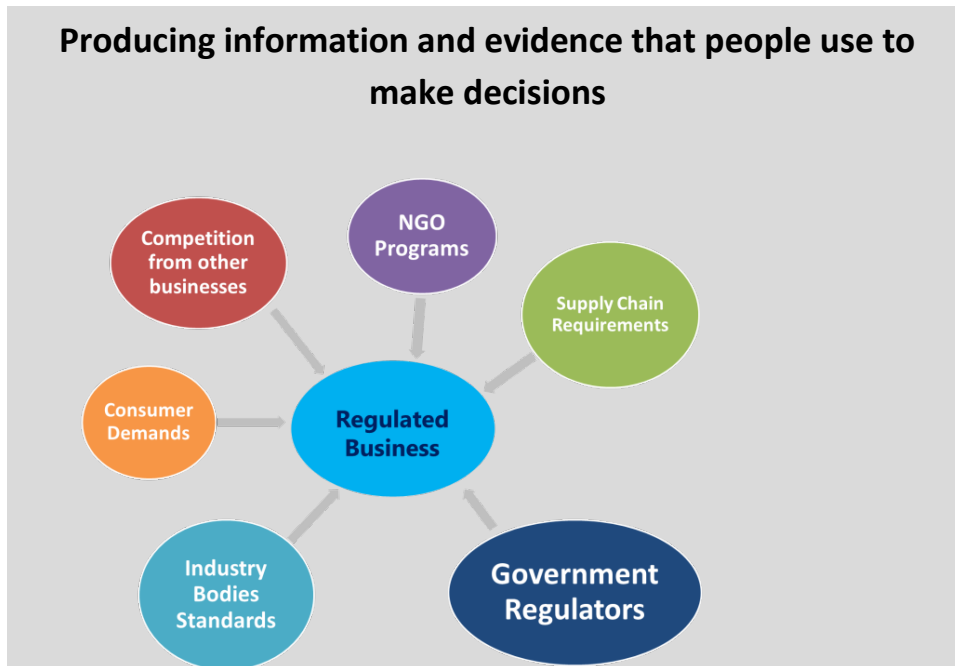


Figure 1: Regulatory influence map – use of published assessment results

2. Timing of scheme

- 2.1 We propose to introduce the new system for assessing compliance in January 2018.
- 2.2 We propose to activate the link to charging from 1 April 2019. This will give operators time to adjust to the new scheme before non-compliance increases their charges. This is in line with feedback from the previous consultation.
- 2.3 We propose not to publish the new CAS results until after the old CAS results for 2017 are published in the autumn of 2018. This will avoid confusion in having two different forms of compliance being published simultaneously. Over this period we will work with operators to ensure that new CAS is fully understood. When new CAS is published for the first time in October/November, we will provide the full record of CAS results back to 1 January 2018. After we publish the first new CAS results, updates will be published every month.

Question 1. Do you have any comments on the proposed timing of the scheme?

3 Categories of compliance

- 3.1 In the 2015 consultation on the development of CAS, we proposed moving from six categories of compliance to five. We revised our proposals based on the consultation feedback and concluded that we should move to three categories. We considered that this proposal represented a much clearer and simpler description of compliance that was more consistent with our [Regulatory Strategy](#).
- 3.2 We propose that new CAS should identify operators as being in “compliance” or “non-compliance” with their permits. We also want to identify the most serious cases of failures to comply with permit conditions for which we have created a “major non-compliance” category. This will include situations where non-compliance has impacts upon the environment and human health and wellbeing.
- 3.3 We now propose adding a fourth category of “not-assessed” which will provide clarity over which site/conditions have been assessed in the previous 12 months and which have not. This will cover low risk sites that are not assessed every year.

Table 1. Comparison of the proposed CAS categories with those in the existing scheme and the 2015 consultation.

Existing CAS	2015 Consultation	Proposed CAS
		Not assessed
Excellent	Compliant	Compliance
Good	Broadly compliant	Non-compliance
Broadly compliant		
At risk	Improvement required	
Poor	Poor	Major non-compliance
Very Poor	Very Poor	

Note: The existing definition of sites as “good” or “broadly compliant” allows for some non-compliances with permit conditions. Only the “excellent” category requires full compliance with permit conditions.

Question 2. Do you have any comments on the proposed new categories?

4 How we will assess compliance with permit conditions

- 4.1 Permits consist of a number of conditions that operators must comply with in order to protect the environment, human health and wellbeing, and promote sustainable resource use. In the current CAS, we distinguish between two types of conditions:
- Environmental Limit Conditions set limits to control, for example, emissions, discharges and abstractions. They ensure that such activities do not cause harm to the environment or human health and wellbeing.
 - Environmental Management Conditions set conditions on how regulated activities are managed. They are also set to prevent harm to the environment, human health and wellbeing, and sustainable resource use. These types of conditions

are particularly important for waste management activities and for radioactive substances.

- 4.2 We no longer propose to distinguish between these different types of conditions. We will expect operators to comply with all relevant conditions and will assess permits as being in compliance or non-compliance on that basis.

Question 3. Do you have any comments on this approach to defining compliance?

5 How we will assess compliance

Assessment methods

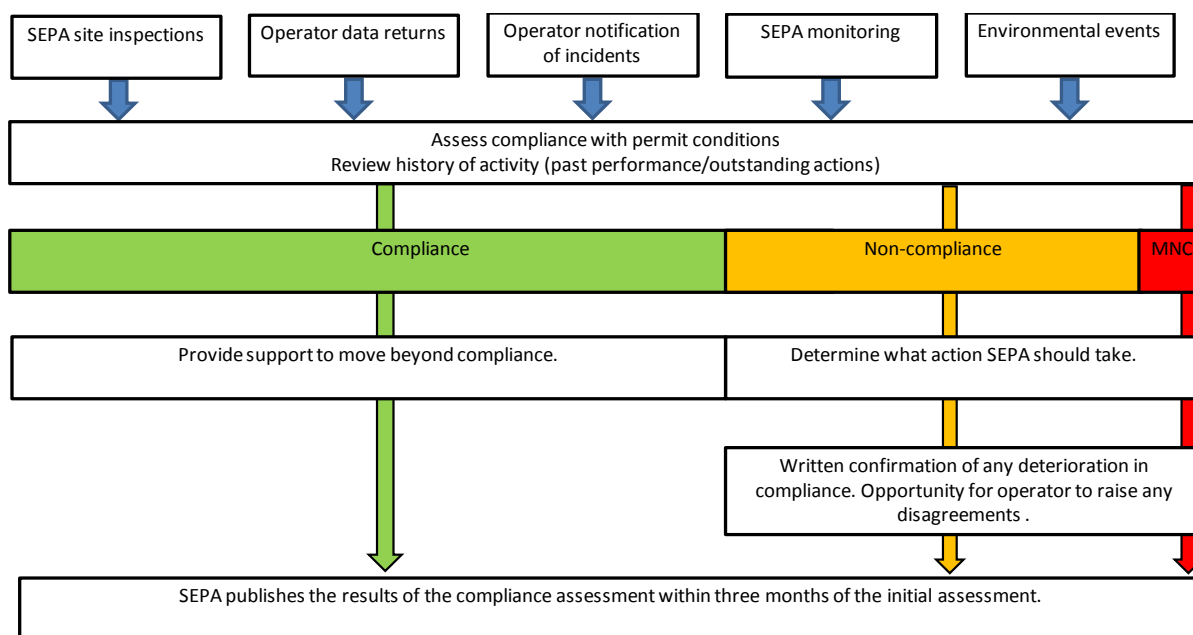
- 5.1 SEPA collects a wide range of information on regulated activities that we then use to assess compliance with permit conditions. We apply these different methods of collecting information depending upon the characteristics of the activity types that we regulate.
- SEPA carries out inspections of regulated activities. The type of inspection varies from simple site visits to complex audits of processes. The requirement to inspect a site is based on a risk assessment that is carried out for each permit. The outcome of this provides the baseline number inspections recommended per year for that permit. Unplanned, ad-hoc or follow up visits may also be undertaken particularly if there are problems with compliance.
 - Some permits will stipulate that data must be submitted to SEPA. This may refer to monitoring data or site management information relevant to compliance.
 - Some permits require the operator to notify SEPA where conditions have been breached or there have been unexpected or unpreventable emissions to the environment. SEPA will assess the severity of the incident.
 - SEPA has its own monitoring programmes which typically involves audit sampling discharges to water, emissions to air, or certain types of waste. We undertake this work to provide an independent check upon the environmental performance of sites.
 - SEPA frequently receives reports of environmental incidents from the public (e.g. pollution in a river, dumping or burning of waste). We also identify environmental incidents as a result of our work monitoring the condition of the environment around regulated sites. We investigate incidents and assess their severity in line with our environmental incidents definitions (see annex II). The incident may have occurred due to a breach of permit condition.
- 5.2 The frequency of SEPA assessments at a site depends upon the environmental risk posed by that site. For some sites, we monitor emissions continuously (eg major industrial sites) or abstractions from large hydropower schemes. We will take samples every two week at very large sewage treatment works. Typically we collect information from sites twelve times in a year (eg waste transfer sites, or distilleries) reducing to four times a year for the smaller sites. We may monitor small low-risk activity once a year or even once every four years (eg sewage works serving a small country hotel).

- 5.3 The lowest-risk activities (eg house septic tanks) are not subject to routine direct assessment; instead we use our environmental monitoring programmes and complaints by the public to identify problems. We do not include such sites within our compliance assessment scheme.

Determining the compliance category

- 5.4 The information collected on regulated activities is used to assess whether the activity is in compliance, non-compliance or major non-compliance with the conditions of its permit.
- 5.5 A permit will be assessed as being in compliance when SEPA has determined that all relevant conditions set out in the permit, that have been subject to assessment, have been met.
- 5.6 Where a relevant permit condition is breached, the permit will be assessed as being in non-compliance, or major non-compliance. The major non-compliance category will only apply to serious non-compliance that has either caused or had clear potential to cause adverse impacts upon the environment (see Annex I).
- 5.7 We expect that only a small proportion of failing operators will be classified as major non-compliance. Typically, such operators take up a large proportion of the resources that SEPA directs to improve compliance.
- 5.8 In broad terms, we will identify a regulated activity as being in major non-compliance where it has caused, or is likely to cause, adverse impacts upon:
- the environment;
 - human health and wellbeing consequences; or
 - sustainable resource use (e.g. recovery and recycling of waste materials).
- 5.9 We have provided examples of how we will define major non-compliance within Annex I. We will further develop this guidance in consultation with the relevant sectors over the consultation period.
- 5.10 Should we determine that the operator is in non-compliance or major non-compliance with the conditions of the permit then we will inform them and give them the opportunity to raise any disagreements.

Figure 2. Process for managing the assessment of compliance.



Where we have not determined compliance

- 5.11 Where a permit or a permit condition has not been assessed in 12 months, it will be categorised as ‘not-assessed’ until our next assessment.

Exclusions

- 5.12 Results may be excluded from compliance assessment under specific circumstances:
- Where errors or mistakes on the part of SEPA have been identified.
 - Where aqueous individual discharge sample results meet with the exclusion criteria provided in SEPA’s regulatory method [WAT-RM-40 Assessment of Numeric Discharge Quality Conditions](#).
 - Where an operator can demonstrate that exclusion of a sample result is appropriate as it is allowed under the permit e.g. extreme weather conditions beyond their control (e.g. vandalism).

Retrospective changes to compliance

- 5.13 There will be situations where a breach of a permit condition is discovered retrospectively, for example, where:
- a data return submitted at year end shows a mid-year exceedance which was not notified to SEPA at the time; or
 - where evidence is available that a non-compliance recently identified had been in existence for a preceding period.
- 5.14 In this situation, the CAS rating will be retrospectively changed for the month(s) during which the breach occurred.
- 5.15 Similarly, where an operator successfully disputes a compliance decision, we will retrospectively change the compliance rating accordingly.

Question 4. Are there any changes that you would like to see in the criteria for defining major non-compliance listed in Annex I?

Question 5. Are there any changes that you would like to see to the way in which we propose to assess compliance?

6 How we will record compliance

Permit compliance

- 6.1 SEPA proposes to publish an operator's compliance against permit conditions within three months of compliance information becomes available. The delay in publishing results will allow SEPA to confirm the assessment prior to publishing. We will aim to progressively reduce the delay as SEPA and operators become more familiar with the new scheme.
- 6.2 We propose to record compliance monthly. This means that any non-compliance assessment in a calendar month will result in the permit being rated as being in non-compliance for the entirety of that month. We consider that this is desirable for two reasons:
- Recording compliance on a daily basis would create an unreasonable administrative burden and may have unintended consequences of creating disputes over the exact number of days a permit was in non-compliance.
 - We consider that environmental incidents and other major incidents cannot be reduced to a few days – they are significant events in the history of a site. Recording them as an incident that affects the compliance for a month appears to be the simplest way of addressing this.
- 6.3 Non-compliance will always be recorded against the month in which it began. If a non-compliance continues into a second month (or more), the non-compliance will be marked against the subsequent month if it lasts for 15 days or more of that month.
- 6.4 If a site is recorded as compliant we will roll-forward that assessment until we have evidence to the contrary. For example, if a waste transfer site is inspected four times a year and an inspection is carried out in April and is found to be compliant, the months up to the inspection in June will also be recorded as compliant. We will roll-forward an assessment of compliance for up to twelve months after which we will record its compliance status as "not assessed".

Example.

A small sewage works, serving a small hotel, may only be inspected once every two years. If the site is visited in February and is found to be in compliance, it will be marked as in "compliance" for 12 months. In the subsequent February it will be marked as "not-assessed" until the next inspection.

- 6.5 SEPA’s approach is different if we visit a site and find that it is non-complaint. Irrespective of the planned frequency of visits, we will work to ensure that the site returns to compliance as soon as possible. This may involve additional SEPA site visits or samples; and/or the operator demonstrating that the breach has been addressed, for example, by providing photographic evidence, additional sample results or a works completion report.
- 6.6 See Annex III for examples of how specific breaches will be recorded.
- 6.7 We propose to publish compliance information as a table showing our month-by-month compliance assessment for individual permit conditions (or groups of permit conditions). This will ensure that we provide the full picture of an operator’s environmental performance.

Figure 3. Illustration of how it is proposed to present permit condition compliance data

Licence	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Discharge std 1	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Discharge std 2	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Discharge std 3	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Management condition 1	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Management condition 2	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Management condition 3	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Data return 1	Yellow	Yellow	Yellow	Red	Red	Green	Green	Green	Green	Green	Green	Green
Data return 2	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green

Note: this presentation of compliance information will run over multiple years (it will not just be presented as a calendar year view)

- 6.8 We propose to summarise overall compliance by taking the worst compliance result recorded for each month. This provides a simple and easy way to understand assessment of environmental performance at the level of a permit. It answers the question: “Has the operator achieved compliance with the conditions in the permit?”
- 6.9 This follows the approach that we currently used to define overall permit compliance.

Figure 4. Illustration of how it is proposed to present permit compliance data (based upon the compliance record illustrated in Figure 3).

Licence	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Overall compliance	Yellow	Yellow	Yellow	Red	Red	Green	Yellow	Yellow	Red	Red	Red	Red

Note this presentation of compliance information will run over multiple years (it will not just be presented as a calendar year view).

- 6.10 We also propose to provide a rolling summary of overall compliance which will assess compliance over the previous 12 months.

Table 2 Illustration of how we propose to provide statistical information on permit compliance

	No of months (out of 12)
Compliance	1
Non-compliance	5
Major non-compliance	6

Wider assessments of compliance

- 6.11 We propose to publish a rolling summary of the environmental performance of operators which will assess compliance over the previous 12 months. We will calculate this as the percentage of time all permits held by the operator have been in the three categories: compliance, non-compliance and major non-compliance.
- 6.12 The example provided below as Figure 5 shows how we propose to calculate compliance for an operator who has four permits.
- 6.13 We would calculate sector compliance in the same manner.

Figure 5. Illustration of how we propose to calculate operator compliance.

Permit 1	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Overall compliance	Yellow	Yellow	Yellow	Red	Red	Green	Yellow	Yellow	Red	Red	Red	Red
Permit 2	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Overall compliance	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Permit 3	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Overall compliance	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Permit 4	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Overall compliance	Green	Green	Green	Green	Green	Green	Yellow	Yellow	Green	Green	Green	Green

Table 3. Illustration of how we propose to provide statistical information on operator compliance

	No of months (out of 48)	Time (%)
Compliance	35	73%
Non-compliance	7	15%
Major non-compliance	6	13%

- 6.14 We will also provide a rolling summary of the overall level of compliance for all the permits that SEPA regulates. We will calculate this as the percentage of time that all permits have been in the three categories: compliance, non-compliance and major non-compliance.
- 6.15 It should be stressed that this is a different measure of overall compliance (% of time) than the statistic used within the current scheme (% of permits that are in compliance). This will allow people to judge the effectiveness of SEPA's actions in driving improvements in environmental performance.

7. Engagement

Operator Action

- 7.1 SEPA intends to communicate the results or outcome of the compliance assessment with the operator at the time of a site visit or inspection, where possible. We will also provide a report and/or correspondence (i.e. a covering letter or via email) stating the results of the assessment, effect on overall compliance assessment and any actions required.

- 7.2 Reports will be provided within 10 working days of an inspection and as soon as reasonably practical for other assessment types (e.g. data returns or sampling results).
- 7.3 We intend to develop an online portal which will allow operators to view current compliance assessments and inspection reports for their permits. This will allow operators to review compliance assessment results in advance of publication
- 7.4 The operator will be given 10 working days to review assessment results and, where necessary, inform SEPA of factual corrections required or apply for exclusion before the results are made publicly available.
- 7.5 Where an operator disagrees with an assessment of compliance made by a SEPA officer they should explain the grounds of their disagreement with the officer. Continuing disagreement can be escalated through SEPA's line-management.

Public Engagement

- 7.6 SEPA will make compliance results publicly available on SEPA's Compliance Assessment web page within three months of the date of assessment. This will not apply to a number of permits that have National Security restrictions.
- 7.7 SEPA proposes to publish the following information on its website:
- monthly compliance results for each permit and for permit conditions;
 - Rolling 12 months statistics for permits showing the proportion of the time that a permit has been within three categories of the scheme (compliance, non-compliance and major non-compliance);
 - Rolling 12 months compliance statistics for operators showing the proportion of the time that the permits held by an operator have been within the three compliance categories. We will not publish operator statistics until 1 April 2019 when we will have 12 months data.

8. Links to charging

- 8.1 From 2019, we propose to introduce a compliance multiplication factor to permit charges under the Environmental Regulation (Scotland) Charging Scheme, where a permit is in non-compliance. This will ensure charges properly reflect the additional costs we incur in regulating sites in non-compliance.
- 8.2 The Compliance Factor will be subject to public consultation as part of other proposed changes to the [Environmental Regulation \(Scotland\) Charging Scheme](#) in August 2017.
- 8.3 To provide the input to the charging scheme, SEPA will publish a cut of the rolling permit compliance statistics before April each year. This publication will be called the Annual Compliance Summary.
- 8.4 This will be based upon the previous 12 month compliance record from the month for which we have complete data. This will provide the information from which the charging scheme will calculate the Compliance Factor. In the first year, we may not have a complete 12 months record by February. Under these circumstances we will assume that operators were in compliance for any missing months.

9 Future development of scheme

- 9.1 In our response to the 2015 CAS consultation, we confirmed that we would widen the scope of CAS to incorporate other environmental obligations and environmental incidents (not associated with permit conditions). This means that we will not only assess compliance against permit conditions but also against other environmental obligations that are enforced by SEPA.
- 9.2 We do not propose to widen the scope in 2018. We consider that SEPA, and operators, need time to gain experience of the new CAS before we widen its scope. We propose to include other environmental obligations from 1 January 2019 and we will consult on these changes in 2018.
- 9.3 We will not use compliance against other environmental obligations to drive charges. Charges will remain affected only by compliance against permit conditions. This is because the legislative basis of charging is linked to the holding of permits.

Figure 6 Types of other environmental obligations which may be included within CAS from 2019.



- 9.4 We are considering introducing the following additional environmental obligations from 2019:
- Duty of Care;
 - Environmental incidents not associated with a permit;
 - Transfrontier shipments;
 - Compliance with notice provisions; and
 - Non-Payment of SEPA charges.

Example non-compliance with Duty of Care obligations.

Introduction
 Anyone who produces waste has a legal responsibility to ensure that the waste that they produce, store, transport and dispose is managed without harming the environment or human health and wellbeing. This is called your Duty of Care. We consider Duty of Care to be a very important legislative provision for ensuring that waste is managed responsibly.

Scenario
 A waste management site complies with its permit conditions but sends waste to an illegal site (failing its Duty of Care obligations). Under these circumstances (from 2019) CAS would record the permit as in compliance but would take account of the non-compliance when assessing the compliance record of the operator. This incident will not affect the charges for the site.

Example for an environmental incident

Introduction

Currently, CAS takes account of environment incidents if their cause results from a failure to comply with a permit condition. We proposed that new CAS will also record environmental incidents that are caused by the operator but are not associated with a permit condition. We will only consider environmental incidents that are subject to SEPA regulation.

Scenario

A vehicle spray shop has a permit to control solvent losses. They comply with the conditions of this permit. They have a spill from a diesel tank that kills fish in the adjacent river. This incident is not covered by the contents of the permit and would not have been covered by the existing CAS scheme. In new CAS (from 2019), this incident would be recorded and be used as part of the assessment of operator compliance. This incident will not affect the charges for the site.

Question 6. Are there any other environmental obligations that you consider should be included in the future development of the scheme?

10 Summary

10.1 We consider that the proposals to change CAS will deliver the following important benefits:

- The scheme will be simpler and easier to use. It will be much clearer about what represents compliance.
- The proposals emphasise the importance of compliance throughout the year.
- The proposals will provide a powerful incentive to bring sites in non-compliance into compliance because the scheme will be responsive to change. The link to charges will also reinforce the obligation to achieve compliance.
- The widening of the scheme to provide assessments at a company and sector level will provide additional useful information on environmental compliance.
- The future extension of the scheme to provide assessments of an operator's compliance with its wider environmental obligations will represent a better description of environmental performance.

Question 7. Are there any other comments that you wish to make about the proposals?

11 How to respond

- 11.1 If you have any questions about the consultation, or you have views which you would like to discuss, please contact us via the following email address SepaComplianceProject@sepa.org.uk or phone 0300 099 6699. Where appropriate we would be happy to attend meetings with you and representatives of your sector. We will also be carrying out engagement with stakeholders during the consultation period to discuss potential sectorial impacts arising from the proposals.
- 11.2 You can respond to the consultation online using [Citizen Space](#)².

You can also respond by sending your views and comments on the proposals to the following address:

CAS Working Group
SEPA
Strathallan House
Castle Business Park
Stirling
FK9 4TZ

Responses should be returned by 3rd November 2017. Earlier responses would be welcome.

- 11.3 We would like to know if you are happy for your response to be made public. If responding online, please complete the confidentiality questions where prompted. If responding by post, please complete and return the Respondent Information Form with your response. If you ask for your response not to be published it will be regarded as confidential and treated accordingly.

² <https://consultation.sepa.org.uk/regulatory-services/cas>

Annex I – Major non-compliance

Examples of the definition of major non-compliance. We will further develop these examples in discussions during the consultation period.

1. Significant consequences outside of site	
Permit condition	Major non-compliance
Numeric standards	Non-compliance causes or has clear potential to cause <ul style="list-style-type: none"> • category I or II event; or • downgrading of annual water or air classification; or • significant adverse trend for groundwater.
Descriptive conditions: no significant oil, foam, litter, noise and odour outside of site.	
Conditions covering management of site, equipment or training.	

2. Risk of impact outside of site: thresholds set to protect the environment or human health and wellbeing	
Permit condition	Major non-compliance
Numeric limits set to achieve environmental standards (excluding pH or Temp). For example, discharge limits, abstraction limits).	More than twice the limit specified in permit
Two-tier numeric limits set to achieve environmental standards (set according to a specified statistical distribution).	Any breach of upper-tier limit
Numeric water resources limits set to achieve less stringent environmental standards.	Abstraction rates exceed standards by more than 20% or compensation flows are less than 80% of the specified flows.
Marine Cage Fish Farm surveys	Survey result or implementation not as specified
Limits on chemicals used in aquaculture	Chemicals not administered as specified
Numeric limits set on the basis of BAT (e.g. PPC sites)	Exceedance of limits are such that local environmental standards risk being broken (assessed by modelling or monitoring).
Numeric limits in authorisations and registrations under RSA93	Any exceedance of 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 which then poses the risk of environmental harm, public nuisance or loss of waste resources.

3. Scope of site	
Permit condition	Major non-compliance
Marine Cage Fish Farm location	Cage group located more than 100m from licensed position.
Impoundment: provision of fish pass and screens.	Fish pass or screen either not provided or not operating.
Type of waste (including by EWC code) that can be accepted by a waste management site.	Exceeded to the extent that the site is unable to manage the material in an effective manner which then poses the risk of environmental harm, public nuisance or loss of waste resources.

4. Risk of impact outside of the site: affecting the environment and/or human health and wellbeing	
Permit condition	Major non-compliance
Conditions covering management of site or provision of equipment. For example: <ul style="list-style-type: none"> Amount of waste accepted or stored on site exceeds the ability of the operator to manage it. Standby pumps at sewage pumping station not operating despite reminders. 	Failure to comply poses risk of: <ul style="list-style-type: none"> category I or II event; or downgrading of annual water or air classification; or significant adverse trend for groundwater.
Conditions covering management of hazardous material	Risk of accident that would cause harm to human health and wellbeing.

5. Understanding of site compromised	
Permit 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 an impact upon the environment, human health or wellbeing.
Requirement to submit routine data	Failure to make a routine planned data return of adequate quality within three months.

6. Overall management of site	
Permit condition	Major non-compliance
Compliance with permit conditions.	On-going non-compliance which is not in itself considered as major non-compliance but which cumulatively represent unacceptable environmental performance. We will use the factors listed in the enforcement guidance as a framework for making the decision

Annex II - Environmental Incidents Definitions

	Category 1 – Major			Category 2 – Significant			Category 3 – Minor		
Media	Water	Air*, land	Rad Subs	Water	Air*, land	Rad Subs	Water	Air*, land	Rad Subs
Length of watercourse/ area impacted	Environmental damage to the ecosystem over a length >1km or an area >1km ²		Considerable secondary radioactive waste has been generated as a result of the event	Environmental damage to the ecosystem over a length <1km or an area <1km ²		There is significant spread of contamination	Localised and limited environmental damage to the ecosystem		Minor spread of contamination or Negligible secondary radioactive waste has been generated as a result of the event
Environmental impact	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	The total dose to a member of the public ² may exceed 5 mSv/y ³	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	The total dose to a member of the public falls between 1 mSv/y and 5 mSv/y ;	Fish kill <10 and/or Contamination exceeds the EQS	Short-term and localised harm to the environment No harm to human health	The total dose to a member of the public falls between 10 uSv/y and 1 mSv/y

Amenity impact	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	There is major adverse effect on the amenity value in the vicinity of the event	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	It involves a high-activity sealed source (HASS) or it involves an unsealed source with an activity greater than its D value	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	Minor reduction in the amenity value of the area affected OR it involves a sealed source of similar level of hazard (SSLPH)
Economic impact	Extensive damage to and/or closure of agricultural or other commercial activities	Extensive damage to and/or closure of commercial activities	There is major impairment to commercial activities in the vicinity of the event	Significant damage to agricultural or other commercial activities	Significant damage to commercial activities	There is significant disturbance to commercial activities in the vicinity of the event	Agricultural or other commercial activities affected	Minor or no damage to commercial activities	Minor impairment to commercial activities in the vicinity of the event

Annex III – Compliance Assessment Examples

Example 1. Litter containment

On 25 April, the litter containment nets at a landfill site have torn and litter has blown out across a field and into people's gardens. This generates many complaints and is considered a Category 2 incident and is therefore recorded as a major non-compliance. The nets are repaired on 17 May. The permit condition requiring no litter outside of the site is recorded as a major non-compliance for April (the month it originated) and May (because the breach lasted for more than 15 days of that month).

Permit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
No litter												

Example 2. Waste water treatment works discharge

Poor performance at a WWTW results in discharge having multiple lower tier failures and consequently in March it exceeds the number of failures permitted by the look-up table. The permit condition specifying the lower-tier standard would be recorded as a non-compliance and this non-compliance would continue until the site is in compliance with the look-up table.

An incident at the WWTW in August results in a failure of the upper-tier standard. This results in a pollution incident causing the death of thousands of fish. The problem at the works only lasted three weeks after which it was back in compliance with standards. The permit condition specifying the upper-tier would be recorded as being in major non-compliance for August.

Licence	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Lower tier												

Licence	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Uper tier												

Example 3. Data return - submission

An operator was due to make a data return by 1 January and fails to do so. As a result, the system records a non-compliance against data returns. On 1st April the operator has still not made a data return and as result, CAS now records this as a major non-compliance. A month later the operator makes the data return and CAS now records the condition covering data returns as being in compliance.

Permit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Data Return	Yellow	Yellow	Yellow	Red	Green	Green	Green	Green	Green	Green	Green	Green

We propose to change the rules for assessing the compliance of data return obligations. Compliance will be assessed in relation to the date when the return is due and not the period to which the data return refers. For example, if the 2017 return is required in the first quarter of 2018, we will record compliance as an attribute of 2018 not 2017.

Example 4. Data return – review

An operator submits their quarterly data return on time on 25 April covering the period of 1 January to 31 March. A SEPA officer reviews the return on 3 May and identifies a permit limit exceedance in February which was not notified to SEPA. The compliance against the condition to notify SEPA of an exceedance and the environmental limit condition are retrospectively changed for February to record the non-compliance.

Permit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Ammonia	Green	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
Notification Cond	Green	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green