

Municipal Stormwater Permits and Compliance with Standards

The Municipal Stormwater Permits establish a notification and response requirement under special condition S4 Compliance with Standards. Condition S4.F of the permits addresses discharges from municipal separate stormwater sewer systems (MS4s) that are likely to contribute to or cause a water quality standards violation in a receiving water. This section of the permit provides an *adaptive management* pathway for permittees to address those discharges. Ecology prepared this publication to clarify the permittee's procedural responsibilities under S4.F, as well as Ecology's response procedures.

Ecology modified the Phase I, Phase II Western Washington, and Phase II Eastern Washington Municipal Stormwater Permits on June 17, 2009, to implement an August 7, 2008, Pollution Control Hearings Board ruling that clarified the adaptive management approach laid out in special condition S4.F.

Permittee Questions about Condition S4.F

Q1: Why is the S4.F process important?

A: Understanding how to use condition S4.F will help you comply with the permit. When you report a water quality standards violation, and as long as you comply with the prescribed process under S4.F, Ecology considers you to be in compliance with conditions S4.A and B of the permit.

Q2: What is the difference between condition S4.F and General Condition G3?

A: General condition G3 describes a required response to discharges, including spills, into or from your MS4 that could constitute a threat to human health, welfare, or the environment. You do not need to link the MS4 discharge to a violation of water quality standards in the receiving water in order to report a discharge under G3. Refer to Ecology's publication [Frequently Asked Questions: Reporting Discharges and Spills under the Municipal Stormwater NPDES Permits](#) for information about when and how to report discharges, including spills, into or from your MS4.

Questions about Notifications to Ecology

Q3: What situation triggers an S4.F.1 notification?

A: Notification under Special Condition S4.F.1 is triggered within 30 days of becoming aware of the following conditions:

1. You have credible site-specific information of a known or likely violation of water quality standards in a receiving water; and

2. You have credible site-specific information that a discharge from your MS4 is causing or contributing to the known or likely violation of water quality standards.

Q4: Who must sign my S4.F.1 notification?

A: Your principal executive officer, ranking elected official or a duly authorized representative must sign your S4.F.1 notification. See General Condition G19 of the permit on requirements for Certification and Signature.

Q5: Where do I send my S4.F.1 notification?

A: Send S4.F.1 notifications to your regional Ecology municipal stormwater permit specialist. That person's contact information is listed at:
www.ecy.wa.gov/programs/wq/stormwater/municipal/municontacts.html

Q6: Am I in compliance with permit conditions S4.A and B after I notify Ecology under S4.F.1?

A: Yes. However, to stay in compliance you must implement the adaptive management response, if applicable, as directed by Ecology.

Q7: How do I know if the information I have is credible?

A: The information you submit about the receiving water and about your MS4 discharge must be credible. For purposes of S4.F.1 notification, examples of credible information include:

- Data from a laboratory obtained through documented methods.
- Data for a field-measured parameter with a documented collection method.
- Documented visual observations or photographs obtained by qualified personnel (depending upon the pollutant of concern or the impact on designated uses of the water body).

In the event that Ecology notifies a permittee under S4.F.2 that it will require an adaptive management response, Ecology will also rely on credible information.

Q8: What does “site-specific” mean in the context of S4.F?

A: Your S4.F.1 notification must include site-specific information about both the receiving water and your MS4 discharge. For receiving waters, this means that the data are collected from a specific location in the water body. Regarding the MS4, the term *site-specific* refers to your MS4 infrastructure in a drainage area that discharges to a receiving water via an outfall, ditch, or infiltration facility (if to ground water). In most cases, this occurs at a single discharge point; however, there may be situations where you may consider closely affiliated discharge points under a single S4.F.1 notification.

Questions about Violations of Standards in Receiving Waters

Q9: What are receiving waters?

A: Receiving waters are the *waters of the state* to which your MS4 discharges. Typical receiving waters include:

- Streams and creeks
- Rivers
- Lakes
- Sloughs
- Marine waters
- Wetlands
- Ground water – Underground Injection Control (UIC) wells are not covered under the Municipal Stormwater Permits (see Special Condition S2.A.1). Refer to Chapter 173-218 WAC for the regulations governing UIC wells. If your groundwater quality violation is from a UIC well, contact the Ecology regional office to report a groundwater quality violation. Municipal stormwater permit condition S4.F does not apply.

Q10: What water quality standards apply to condition S4.F?

A: Three different water quality standards regulations apply to the Municipal Stormwater Permits. Consult each regulation for information about determining violations.

1. Surface water quality standards are defined in [Water Quality Standards for Surface Waters of the State of Washington, Chapter 173-201A WAC](#). These standards designate uses for specific surface waters, and include numeric and narrative criteria. A violation of these standards can occur if numeric or narrative criteria are not met, including if there is a negative effect on designated uses.
2. [Groundwater Quality Standards, Chapter 173-200 WAC](#).
3. [Sediment Management Standards, Chapter 173-204 WAC](#) establishes standards for the quality of surface sediments (e.g., settled particulate matter located in the predominant biologically active aquatic zone, or exposed to the water column). For the Municipal Stormwater Permits, you should use the Sediment Quality Standards described in Part III of Chapter 173-204 WAC to determine whether a violation of sediment standards has occurred.

Q11: What is the difference between a known and a likely violation of water quality standards in the receiving water?

A: A known water quality standards violation in the receiving water occurs when chemical or physical data confirms the violation at a specific location. The applicable water quality standards regulation provides information about determining a water quality violation for the pollutant of concern. Known water quality standards violations may be listed on the State Water Quality Assessment (in either Category 4 or 5).

See [Washington State's Water Quality Assessment \[303\(d\)\]](#) for more information. A likely violation of water quality standards in the receiving water may be recognized using best professional judgment when data is not available or it is not necessary or not safe to collect data.

Questions about MS4 Discharge Information

Q12: What MS4 discharge information should I consider to help me decide whether my MS4 is causing or contributing to a water quality violation in the receiving water?

A: Examples of relevant MS4 discharge information include, but are not limited to:

- The quality of stormwater from an outfall prior to entering the receiving water.
- The quality of stormwater flowing through conveyance pipes.
- The quality of material collected in catch basin sumps.
- The quality of material collected in sediment traps, or similar devices, mounted inside conveyance pipes.
- The quality of water or material from within flow control facilities, such as detention ponds.

You should use data from stormwater facilities designed for water quality treatment only when it represents the quality of the discharge after it has received treatment (i.e., leaving the facility).

Q13: How do I link the site-specific discharge information and the violation in receiving water?

A: Your notification should describe why the MS4 discharge is causing or contributing to a violation of water quality standards in the receiving water. Examples include:

- You obtained the MS4 discharge information near the point where it discharges to receiving waters.
- You observed petroleum-contaminated ground water seeping into a drainage ditch and a sheen is present on the downgradient receiving water.

In some cases you may have a known violation of water quality standards in the receiving water and credible information taken from your MS4 in a drainage area that discharges to the receiving water, but you are not able to logically connect the two. Examples include:

- Ditches or other conveyance swale facilities prevent the discharge from reaching receiving water (e.g., the discharge seeps into the soils).
- Functioning treatment facilities downgradient from the sampled location may change the water quality before discharge.

In some situations, you may not be able to connect the MS4 discharge information to the water quality standards violation in the receiving water. In these situations, Ecology recommends that you investigate your MS4 where it discharges to receiving waters, or at the

most downgradient location where you can safely conduct the investigation, in order to determine if S4.F applies.

Q14: I have information about a water quality standards violation in a receiving water, but no relevant MS4 discharge information. What do I do?

A: For this example, you likely do not have sufficient information to submit a notification under S4.F.1. Your knowledge of a water quality standards violation in a receiving water may influence how you implement some components of your Stormwater Management Program, such as priorities for illicit discharge screening or MS4 maintenance activities. With respect to notification under S4.F.1, you must have credible site-specific information that a discharge from your MS4 is causing or contributing to the violation of water quality standards in the receiving water.

Questions about Ecology's Response to S4.F.1 Notifications

Q15: What will Ecology do after it receives my S4.F.1 notification?

A: After determining that the S4.F.1 notification is complete, Ecology will evaluate whether to require an adaptive management response. This decision will depend upon the content of the notification. Ecology will notify you whether an adaptive management response is necessary, and the basis for this determination. Ecology may contact you for additional information before responding in writing that an adaptive management response is required.

Q16: How will Ecology determine whether to require an adaptive management response?

A: Condition S4.F.2 contains two provisions that Ecology will use to determine whether to require an adaptive management response.

1. If a TMDL or other enforceable water quality cleanup plan (including agreements or programs established under other regulatory authorities) is already addressing the violation of water quality standards, Ecology will not require an adaptive management response.
2. If the Municipal Stormwater Permit stormwater management program requirements will eliminate the MS4's contribution to the water quality standards violation, Ecology will not require an adaptive management response.

Ecology will also consider whether you have already addressed the reported situation, and whether requirements under a different NPDES permit, such as a construction stormwater general permit, are more appropriately applied to the reported situation. In all other cases, Ecology will require an adaptive management response as outlined in the permit. Ecology will notify you in writing when it has decided to require an adaptive management response and will describe the basis for this determination.

Questions about the Adaptive Management Report

Q17: What must my Adaptive Management Report include?

A: At a minimum, your Adaptive Management Report must include the information listed under condition S4.F.3.a. Because the nature of water quality problems and adaptive management responses can vary considerably, the content of each Adaptive Management Report will depend upon the situation. Ecology encourages a dialogue with the permittee during the development of the Adaptive Management Report.

Q18: What does “AKART on a site-specific basis” mean?

A: The Municipal Stormwater Permits are programmatic permits designed to address typical municipal stormwater pollutants at typical concentrations. For a specific site or water quality violation, you may need to take additional actions to protect human health and/or the environment. For municipal stormwater discharges, “AKART on a site-specific basis” may translate into increased frequency of relevant operational BMPs, or it may mean that a stormwater treatment facility is necessary. The range of potential AKART solutions is large and depends upon the situation.

Q19: Am I in compliance with conditions S4.A and B while I prepare my adaptive management report?

A: Yes, you are in compliance with conditions S4.A and S4.B while you prepare an adaptive management report required by Ecology. You are also in compliance with conditions S4.A and B during the time Ecology is reviewing your adaptive management report. You are implementing an approved adaptive management response, for the purposes of S4.F.3.e, from the time that Ecology determines such a response is necessary, provided you meet Ecology’s deadline and content requirements.