

CHAPTER 1: BACKGROUND AND REGULATORY REQUIREMENTS

PART OF THE SOURCE CONTROL (BUSINESS/SITE) INSPECTION PROGRAM GUIDANCE MANUAL

**Prepared for
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Note:

Some pages in this document have been purposely skipped or blank pages inserted so that this document will print correctly when duplexed.

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1. BACKGROUND AND REGULATORY REQUIREMENTS

1.1. PROJECT BACKGROUND

1.1.1. Project Funding and Acknowledgements

The Washington Stormwater Center was awarded funding from the Stormwater Action Monitoring (SAM) to develop a guidance manual and trainings to assist Phase II stormwater permittees with meeting the source control (business/site) requirements described in S5.C.8 of the Western Washington National Pollutant Discharge Elimination System Phase II Municipal Stormwater Permit (NPDES Phase II permit).

1.1.2. Business Inspection Group (BIG) History

The Business Inspection Group (BIG) is a regional group that was formed to share information and collaborate on topics surrounding source control business inspections and the related NPDES Phase I and Phase II permit requirements.

In January 2020, members of the BIG compiled information about existing business inspection programs conducted by eight jurisdictions within the Puget Sound region and published their findings in the Business Inspection Program Report (BIG Report). This manual is an expansion of the efforts undertaken to develop the BIG Report. The BIG Report can be found on the [Washington Stormwater Center website](#).

1.1.3. PPA and Other Complementary Programs

Ecology's **Pollution Prevention Assistance (PPA)** program partners with city and county member organizations that provide pollution prevention specialists to help businesses find and resolve potential pollution issues. The PPA is focused on Small Quantity Generators (SQGs) and potential for hazardous waste generation. Due to substantial overlap in scope of the PPA and local Source Control Programs, permittees may benefit from close coordination with their neighboring PPA partner, where applicable. Many PPA partners have already developed inventories, prepared outreach materials, and conducted their own inspections. Note that the PPA does not provide 100 percent coverage of all applicable businesses to be included in the source control (business/site) inspection program as required by the NPDES Phase I and Phase II permits.

Some businesses may already be covered by an **Industrial Stormwater General Permit (ISGP)**, which requires industrial sites to monitor, measure, and reduce stormwater pollution leaving their site. Ecology already inspects these sites, but not necessarily on an annual basis. These sites provide a potential opportunity to coordinate with Ecology where appropriate for combined inspection(s) and outreach. Some businesses may also have individual industrial stormwater permits. Information on businesses or sites covered by the ISGP as well as individual industrial stormwater permits can be found in the [Water Quality Permitting and Reporting System \(PARIS\) database](#).

Other programs that may also have complementary needs and information include Fats, Oils, and Grease (FOG) inspection and enforcement programs; cross-connection programs; private stormwater facility maintenance; and illicit discharge programs. These programs and potential coordination strategies will be described in more detail in *Chapter 4: Developing a Business Inspection Program*.

1.2. PURPOSE OF SOURCE CONTROL

Source control is a practice to implement preventative measures to stop pollution before it enters the Municipal Separate Storm Sewer System (MS4) and subsequently flows to receiving waters. Source Control aims to address accumulation of non-point source pollutants such as fertilizers, oil and grease, washwater, etc., that originate from daily business/site activities, spill incidents, improper disposal, or other indirect sources.

Polluted runoff from an individual site may appear minor to the owner or to the public, but the combined pollution from all commercial, industrial, or other activities that is collected and discharged to our waterways has been shown to have negative impacts on salmon, orcas, and all species that depend on water quality in the Puget Sound region. Stopping these pollutants at the source is a critical step that all jurisdictions must take to protect our receiving waters.

The **Source Control Program for Existing Development** (S5.C.8 in the NPDES Phase II permit) is a proactive, preventative, inspection-based program that is focused on addressing pollution from existing land use and activities that have the potential to release pollutants to the MS4. This program relies on permittees to inspect businesses and properties, and if necessary, requires implementation of operation or structural source control best management practices (BMPs) in order to prevent pollution from entering the MS4 (Ecology 2018).

1.3. PURPOSE OF THIS MANUAL

The purpose of this manual is to provide resources, templates, and strategies that Permittees can use to achieve compliance with 2019–2024 NPDES Phase II permit requirements for the **Source Control Program for Existing Development** (S5.C.8 in the NPDES Phase II permit). The resources, templates, and strategies provided were developed based on research, input, and experiences of jurisdictions that have developed similar programs. Topics covered by this

manual address the key source control program requirements included in the NPDES Phase II permit:

NPDES Permit Requirement	Guidance Manual Reference
Definitions and Acronyms and all of S5.C.8	Chapter 1: Background and Regulatory Requirements
Adopt Ordinance(s) for Source Control Program (S5.C.8.b.i)	Chapter 2: Developing Source Control Code/Ordinances and Enforcement Policies
Establish Source Control Inventory (S5.C.8.b.ii)	Chapter 3: Source Control Inventory Development, Updates, and Prioritization
Implement Inspection Program (S5.C.8.b.iii)	Chapter 4: Developing a Business/Site Inspection Program Chapter 5: Conducting Business/Site Inspections Chapter 6: Post-Inspection Data Management and Recordkeeping Chapter 7: Education and Outreach Materials
Implement Progressive Enforcement Policy (S5.C.8.b.iv)	Chapter 2: Developing Source Control Code/Ordinances and Enforcement Policies
Train Staff (S5.C.8.b.v)	Chapter 8: Training

1.4. DEFINITIONS AND ACRONYMS ("PROGRAM DICTIONARY")

Business, as used in this manual, is a general term for publicly and privately owned institutional, commercial, and industrial sites which have the potential to generate pollutants to the municipal separate storm sewer system (MS4). Ecology requires Permittees to develop an inventory of these sites (see Source Control Inventory). The type of businesses included in the inventory can be defined by the Permittee to include multi-family housing units or other sites that are not necessarily thought of as businesses.

Business/site inspection is a site visit conducted by the Permittee or their representative to assess compliance with source control requirements. This may include follow-up visits.

Geographic Information System (GIS) mapping software and mobile applications provide mapping and spatial analytics technology that can support locating, verifying, and tracking status of businesses/sites prior to, during, or after an inspection.

Illicit connection means any infrastructure connection to the MS4 that is not intended, permitted, or used for collecting and conveying stormwater or non-stormwater discharges allowed as specified in the Municipal Stormwater Permits. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the MS4.

Illicit discharge means any discharge to a MS4 that is not composed entirely of stormwater or of non-stormwater discharges allowed as specified in the Municipal Stormwater Permits.

Industrial Stormwater General Permit (ISGP) lists requirements that industrial facilities must follow to comply with federal regulations that reduce pollution. The ISGP requires most industrial sites to monitor, measure, and reduce stormwater pollution leaving their site. Information can be found on [Ecology's ISGP web page](#).

Industrial Stormwater Individual Permit (IP) is an individual permit issued to industries that discharge process wastewater to surface waters. Similar to the ISGP, the permit lists requirements that process wastewater dischargers must follow to comply with federal regulations that reduce pollution. Information can be found on [Ecology's IP web page](#).

Municipal separate storm sewer system (MS4) is defined by the NPDES Phase I and Phase II Municipal Stormwater Permits as a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- i. Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges to waters of Washington State.
- ii. Designed or used for collecting or conveying stormwater.
- iii. Which is not a combined sewer;
- iv. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.; **and**
- v. Which is defined as "large" or "medium" or "small" or otherwise designated by Ecology pursuant to 40 CFR 122.26.

Municipal Stormwater Permits as referred to in this manual include the NPDES Phase I and Western Washington Phase II Municipal Stormwater Permits.

North American Industry Classification System (NAICS) is used in the United States, Canada, and Mexico and assigns a code (up to 6 digits) to classify businesses based on their primary business activity. NAICS was adopted in 1997 to replace the Standard Industrial Classification (SIC) system. NAICS codes are often self-reported by businesses and may require verification. See Appendix 8 of the [Western Washington Phase II Municipal Stormwater Permit](#) for businesses and activities that are potential sources of pollutants.

National Pollutant Discharge Elimination System (NPDES) is the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state

(waters defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington state and “waters of the state” as defined in Chapter 90.48 RCW, which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the State of Washington) from point sources. These permits are referred to as NPDES permits and, in Washington state, are administered by Ecology.

Permittee includes city, town, or county Permittees, port Permittees, Co-Permittees, Secondary Permittees, and New Secondary Permittees.

Pollution Prevention Assistance (PPA) is an Ecology program that partners with city and county member organizations that provide pollution prevention specialists to help businesses find and resolve potential pollution issues (focused on small quantity generators [SQGs]). Information on this program can be found on [Ecology's PPA web page](#).

Stormwater Action Monitoring (SAM) is a collaborative, Western Washington regional stormwater monitoring program that is funded by more than 90 cities and counties, the ports of Seattle and Tacoma, and the Washington State Department of Transportation under the NPDES Phase I and Phase II Municipal Stormwater permits. Information on SAM can be found on [Ecology's SAM web page](#).

SWMMWW or **Stormwater Management Manual for Western Washington** refers to the 2019 Stormwater Management Manual for Western Washington. The SWMMWW can be found [here](#).

Standard Industrial Classification (SIC) System was originally developed in the 1930s and assigns a code (up to 4 digits) to classify businesses based on their primary business activity. It has been replaced by NAICS codes. SIC codes are often self-reported by businesses and may require verification. See Appendix 8 of the [Western Washington Phase II Municipal Stormwater Permit](#) for businesses and activities that are potential sources of pollutants.

Source Control Best Management Practices (BMPs) can be operational or structural and focus on preventing stormwater pollution from occurring, as opposed to other BMP types that reduce the volume, timing, or pollutants in stormwater runoff. Examples include good housekeeping and spill prevention, as well as industry or business-specific practices. Source control BMPs are listed in the SWMMWW Volume IV, or a Phase I Program approved by Ecology.

Source Control Inventory is a database compiled by the Permittee to identify businesses or sites in the Permittee's jurisdiction with potential outdoor pollutant-generating sources that discharge to the MS4.

Site is the area defined by the legal boundaries of a parcel or parcels of land.

Source Control Program includes all permit-required activities required by the Municipal Stormwater Permits and discussed in this manual, including the business inventory (S5.C.8.b.ii), inspections (S5.C.8.b.iii), enforcement (S5.C.8.b.iv), and staff training (S5.C.8.b.v).

SQGs are Small Quantity Generators. In the state of Washington, these are businesses that generate less than 220 pounds of dangerous waste, or less than 2.2 pounds of certain kinds of highly toxic waste, in any month. SQGs are the focus of PPA. Source control inspection programs may include SQGs but are not limited to SQGs.

1.5. REGULATORY REQUIREMENTS

Table 1.1 provides a summary of the NPDES Phase I and Western Washington Phase II Municipal Stormwater permit requirements for the Source Control Program for Existing Development. The permit requirements are substantially similar for Phase I and Phase II permittees.

Table 1.1. NPDES Municipal Stormwater Permit Requirements for the Source Control Program for Existing Development.

Category	Phase I Permit (2019–2024)	Western Washington Phase II Permit (2019–2024)
Source Control Code/Ordinances	<p>S5.C.8.b.i</p> <p>“Permittees shall enforce ordinance(s), or other enforceable documents, requiring the application of source control BMPs for pollutant generating sources associated with existing land uses and activities.</p> <p>Permittees shall update and make effective the ordinance(s), or other enforceable documents, as necessary to meet the requirements of this Section no later than August 1, 2021.</p> <p>The requirements of this subsection are met by using the source control BMPs in Volume IV of the Stormwater Management Manual for Western Washington, or a functionally equivalent manual approved by Ecology. In cases where the manual(s) lack guidance for a specific source of pollutants, the Permittee shall work with the owner/operator to implement or adapt BMPs based on the best professional judgement of the Permittee.”</p>	<p>S5.C.8.b.i</p> <p>“No later than August 1, 2022, Permittees shall adopt and make effective an ordinance(s), or other enforceable documents, requiring the application of source control BMPs for pollutant generating sources associated with existing land uses and activities (see Appendix 8 to identify pollutant generating sources).</p> <p>The requirements of this subsection are met by using the source control BMPs in Volume IV of the Stormwater Management Manual for Western Washington, or a functionally equivalent manual approved by Ecology. In cases where the manual(s) lack guidance for a specific source of pollutants, the Permittee shall work with the owner/operator to implement or adapt BMPs based on the best professional judgement of the Permittee.”</p>
Source Control Inventory	<p>S5.C.8.b.ii</p> <p>“Permittees shall implement a program to identify publicly and privately owned institutional, commercial, and industrial sites which have the potential to generate pollutants to the MS4. The Permittee shall update the inventory at least once every 5 years. The program shall include a source control inventory which lists:</p> <ul style="list-style-type: none"> a) Businesses and/or sites identified based on the presence of activities that are pollutant generating (refer to Appendix 8). b) Other pollutant generating sources, based on complaint response, such as home-based businesses and multifamily sites.” 	<p>S5.C.8.b.ii</p> <p>“No later than August 1, 2022, the Permittees shall establish an inventory that identifies publicly and privately owned institutional, commercial, and industrial sites which have the potential to generate pollutants to the MS4. The inventory shall include:</p> <ul style="list-style-type: none"> a) Businesses and/or sites identified based on the presence of activities that are pollutant generating (refer to Appendix 8). b) Other pollutant generating sources, based on complaint response, such as: home-based businesses and multi-family sites.”

Table 1.1. NPDES Municipal Stormwater Permit Requirements for the Source Control Program for Existing Development.

Category	Phase I Permit (2019–2024)	Western Washington Phase II Permit (2019–2024)
Inspection Program	<p>S5.C.8.b.iii “Permittees shall implement an inspection program for sites identified pursuant to S5.C.8.b.ii ...” <i>Requirements of S5.C.8.iii(a) are summarized in the following row.</i></p> <p>b) “The Permittee shall annually complete the number of inspections equal to 20% of the businesses and/or sites listed in their source control inventory to assess BMP effectiveness and compliance with source control requirements. The Permittee may count follow up compliance inspections at the same site toward the 20% inspection rate. The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period. Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.</p> <p>c) Each Permittee shall inspect 100% of sites identified through credible complaints.</p> <p>d) Permittees may count inspections conducted based on complaints, or when the property owner denies entry, to the 20% inspection rate.”</p>	<p>S5.C.8.b.iii “No later than January 1, 2023, Permittees shall implement an inspection program for sites identified pursuant to S5.C.8.b.ii ...” <i>Requirements of S5.C.8.iii(a) are summarized in the following row.</i></p> <p>b) “The Permittee shall annually complete the number of inspections equal to 20% of the businesses and/or sites listed in their source control inventory to assess BMP effectiveness and compliance with source control requirements. The Permittee may count follow-up compliance inspections at the same site toward the 20% inspection rate. The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period. Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.</p> <p>c) Each Permittee shall inspect 100% of sites identified through credible complaints.</p> <p>d) Permittees may count inspections conducted based on complaints, or when the property owner denies entry, to the 20% inspection rate.”</p>
Business Education and Outreach Materials	<p>S5.C.8.iii a) “All identified sites with a business address shall be provided, by mail, telephone, electronic communications, or in-person information about activities that may generate pollutants and the source control requirements applicable to those activities. This information may be provided all at one time or spread out over the permit term to allow for some tailoring and distribution of the information during site inspections.”</p>	<p>S5.C.8.b.iii a) “All identified sites with a business address shall be provided information about activities that may generate pollutants and the source control requirements applicable to those activities. This information shall be provided by mail, telephone, electronic communications, or in person. This information may be provided all at one time or spread out over the permit term to allow for tailoring and distribution of the information during site inspections.”</p>

Table 1.1. NPDES Municipal Stormwater Permit Requirements for the Source Control Program for Existing Development.

Category	Phase I Permit (2019–2024)	Western Washington Phase II Permit (2019–2024)
Enforcement Policy	<p>S5.C.8.b.iv</p> <p>“Each Permittee shall implement a progressive enforcement policy to require sites to come into compliance with stormwater requirements within a reasonable time period as specified below:</p> <ol style="list-style-type: none"> a) If the Permittee determines, through inspections or otherwise, that a site has failed to adequately implement required BMPs, the Permittee shall take appropriate follow-up action(s), which may include: phone calls, letters, emails, or follow-up inspections. b) When a Permittee determines that a site has failed to adequately implement BMPs after a follow-up inspection(s), the Permittee shall take enforcement action as established through authority in its municipal code or ordinances, or through the judicial system. c) Each Permittee shall maintain records, including documentation of each site visit, inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating an effort to bring sites into compliance. Each Permittee shall also maintain records of sites that are not inspected because the property owner denies entry. d) A Permittee may refer non-emergency violations of local ordinances to Ecology, provided, the Permittee also makes a documented effort of progressive enforcement. At a minimum, a Permittee’s enforcement effort shall include documentation of inspections and warning letters or notices of violation.” 	<p>S5.C.8.b.iv</p> <p>“No later than January 1, 2023, each Permittee shall implement a progressive enforcement policy that requires sites to comply with stormwater requirements within a reasonable time period as specified below:</p> <ol style="list-style-type: none"> a) If the Permittee determines, through inspections or otherwise, that a site has failed to adequately implement required BMPs, the Permittee shall take appropriate follow-up action(s), which may include phone calls, reminder letters, emails, or follow-up inspections. b) When a Permittee determines that a site has failed to adequately implement BMPs after a follow-up inspection(s), the Permittee shall take enforcement action as established through authority in its municipal codes or ordinances, or through the judicial system. c) Each Permittee shall maintain records, including documentation of each site visit, inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating an effort to bring sites into compliance. Each Permittee shall also maintain records of sites that are not inspected because the property owner denies entry. d) A Permittee may refer non-emergency violations of local ordinances to Ecology, provided, the Permittee also makes a documented effort of progressive enforcement. At a minimum, a Permittee’s enforcement effort shall include documentation of inspections and warning letters or notices of violation.”

Table 1.1. NPDES Municipal Stormwater Permit Requirements for the Source Control Program for Existing Development.

Category	Phase I Permit (2019–2024)	Western Washington Phase II Permit (2019–2024)
Training	<p>S5.C.8.b.v</p> <p>“Permittees shall train staff who are responsible for implementing the Source Control Program to conduct these activities. The ongoing training program shall cover the legal authority for source control, source control BMPs and their proper application, inspection protocols, lessons learned, typical cases, and enforcement procedures. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staff. Permittees shall document and maintain records of the training provided and the staff trained.”</p>	<p>S5.C.8.b.v</p> <p>“Permittees shall train staff who are responsible for implementing the source control program to conduct these activities. The ongoing training program shall cover the legal authority for source control, source control BMPs and their proper application, inspection protocols, lessons learned, typical cases, and enforcement procedures. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staff. Permittees shall document and maintain records of the training provided and the staff trained.”</p>

1.6. MANUAL ORGANIZATION

This manual is organized into eight chapters:

- Chapter 1: Background and Regulatory Requirements
- Chapter 2: Developing Source Control Code/Ordinances and Enforcement Policies
- Chapter 3: Source Control Inventory Development, Updates, and Prioritization
- Chapter 4: Developing a Business/Site Inspection Program
- Chapter 5: Conducting Business/Site Inspections
- Chapter 6: Post-Inspection Data Management and Recordkeeping
- Chapter 7: Education and Outreach Materials
- Chapter 8: Training

The manual also contains a Source Control Online Resource Library (SCORL) which is hosted on the [Washington Stormwater Center](#) website that includes supplemental resources for most chapters.

