



City of Seattle
Seattle Public Utilities

April 29, 2016

Municipal Permit Comments
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: Seattle Comments on Ecology's Proposed Stormwater Control Transfer Program

Thank you for the opportunity to comment on Ecology's second draft Stormwater Control Transfer Program Guidance Document, Publication No. 15-10-017 published March 2016. Seattle appreciates Ecology's consideration of Seattle's comments on the first draft on the out of the basin transfer program. Seattle's comments and recommendations on the second draft are provided in Attachment 1.

Please feel free to contact Sherell Ehlers of my staff if you have any questions regarding this letter. Sherell can be reached at (206) 386-4576 or at Sherell.Ehlers@Seattle.gov.

Sincerely,

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Planning & Program Management Division Director
Seattle Public Utilities

cc: Kevin Buckley, SPU
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Attachment 1 – City of Seattle Comments

Comment #	Page #	Section	Comment	Suggested Edit
1.	Overall	Overall	Seattle supports Ecology's decision to limit the guidance scope to flow control.	None.
2.	1	Guidance Overview	<p>Seattle agrees with Ecology that the Stormwater Control Transfer program draft guidance does not apply to in-watershed transfers. However, Seattle recommends further clarifying this through the following:</p> <p>The Guidance document should clarify that the guidance applies only to out-of-basin transfers. Because the main focus of the guidance document is on out-of-basin transfer, guidance on in-basin transfer may confuse users. Seattle suggests that Ecology remove Attachment 1 from the document to avoid confusion as Attachment 1 and the related definition (comment below) go beyond the intended scope, for example assuming "capacity credits" for in-basin transfer.</p>	<p>Revision:</p> <p>The focus of the body of this document is out-of-basin transfers. Refer to Appendix 1 of the Phase I and II Municipal Stormwater Permits for Attachment 1 of this document provides a summary of requirements and guidance for in-basin transfers of stormwater facilities. In-basin transfers refer to the construction of stormwater facilities that discharge to the same receiving water as the development project site.</p>
3.	29	Overall Guidance / Glossary	"Predeveloped condition" definition differs from, oversimplifies and perhaps misstates regulatory language in MS4 Permit App. 1 at 4.7 and Ecology Manual at Vol. I, 2.5.7. It also does not match the Manual definition. It is confusing for key terms used elsewhere to regulate permittees to be defined or redefined in guidance.	Delete definition and move any guidance-specific explanation to the body of guidance.
4.	29	Overall Guidance / Glossary	"Pre-project condition" differs from, oversimplifies and perhaps misstates regulatory language in MS4 Permit App. 1 at 4.7 and Ecology Manual at Vol. I, 2.5.7. See footnote to each. There is no Manual definition. It is confusing for key terms used elsewhere to regulate permittees to be defined for the first time in guidance.	Delete definition and move any guidance-specific explanation to the body of guidance.

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5.	Various	Overall Guidance	<p>The guidance is inconsistent using the following terms: “pre-project condition” vs. “pre-project land cover”; “pre-developed condition” vs. “pre-developed land cover”.</p> <p>The definitions of “pre-project condition” and “pre-developed condition” both include “land cover” in the definitions. Therefore it is confusing to use “land cover” and “land cover condition” throughout the document.</p>	Use “pre-project condition” and “pre-developed condition” throughout the document.
6.	1	Footnote 2	Typo in footnote.	2 For the 2013-18 permit cycle, Ecology intends to use its Administrative Order authority to approve individual Permittee proposals to establish a Stormwater Control Transfer Program. Actions taken though <u>through</u> Administrative Orders are appealable by municipalities and third parties. Any parties interested in being notified of Administrative Orders approving transfer programs can contact Ecology to be added to a notification list.
7.	3	Footnote 6	As noted above, guidance should clarify that it applies only to out-of-basin transfers. Because the guidance focusses on out-of-basin transfer, it is not the place to create or expand guidance on in-basin transfer.	<p>Delete "the body of" and "See Attachment 1."</p> <p>Refer to Appendix 1 of the Phase I and II Municipal Stormwater Permits for in-basin transfers.</p>
8.	4	Specific Technical Guidelines for Flow Control Improvement Transfers	Consider breaking item #6 into two points as they pertain to two different guidelines.	<p>6. Where regional facilities in a high priority watershed will serve to provide capacity credits for purchase, it should be designed for future build-out of the area draining to it, whenever possible, so that it can fully meet the needs of its drainage area.</p> <p><u>7.</u> When a regional facility...</p>

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9.	4	Specific Technical Guidelines for Flow Control Improvement Transfers	The last sentence in item #6 is referring to in-basin transfers and is not applicable to this guidance document. Restructure this sentence to only apply to out of the basin transfers.	Consider: <u>7. When a regional facility has exhausted its capacity credits, additional transfers to the regional facility shall not be allowed for projects within the basin or out of the basin. redevelopment projects within its drainage area that increase impervious area must either: 1) meet its flow control requirements on-site; 2) transfer its flow control improvements to another flow control facility site within the high priority watershed; or 3) transfer its flow control improvements to another high priority watershed.</u>
10.	6	Table 2	Table 2 is for scenarios when a forested pre-developed condition is required.	Consider adding a footnote that explains that Table 2 applies to projects that are required to meet a forested pre-developed condition (and not a pasture or existing pre-developed condition).
11.	6	Table 2, Forested Pre-Project Land Cover	Consider text change to be clear that if existing pre-project condition is forested, then transfer is not allowed.	Project Site: Impervious to Forested Transfer site: No additional Improvements (transfer not allowed)
12.	8	Steps 1 – 4	The headings in Steps 1 – 4 do not match the table headings on pages 9 – 15.	E.g.: Page 8: Step 1: Fish Use and Aquatic Habitat Page 10: Step 1: Fish Use and Aquatic Conditions
13.	9	Prioritization Analysis Support	The title for the tables on 9 – 15 still references LID & Runoff Treatment. Also, should this title instead refer to “Watershed Prioritization” instead of Flow Control?	Recommended Local Prioritization <u>Watershed Prioritization</u> Data for Flow Control, Low Impact Development and Runoff Treatment
14.	11	Prioritization Analysis Support	Step 2 still references LID and Runoff Treatment	Step 2: Flow Control, LID and Runoff Treatment Opportunity Assessment

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15.	17	Monitoring (Section III: Considerations for Developing an Effectiveness Monitoring Plan for Stormwater Control Transfer program)	Seattle suggests that Ecology restate its reference to the PCHB decision by quoting the decision. The PCHB has not considered stormwater control transfer approaches in general, but instead ruled on one particular alternative program, which it found lacking on several grounds under Special Condition S.5.C.5.b.ii.	The Washington State Pollution Control Hearings Board ruled (PCHB No. 10-013) that a monitoring program is necessary to confirm the equivalency of a stormwater control transfer approach concerning compliance with default stormwater management requirements in <u>“alternative mechanisms ... must be based in science and have some assurances that beneficial uses will have at least the same level of protection as provided by”</u> the Phase I Municipal Stormwater Permit. Ecology supports the concept of establishing a monitoring program <u>as one way</u> to document effectiveness of a Stormwater Control Transfer Program in improving water quality and /or quantity conditions in a targeted, priority watershed and offers the following guidance for establishing such a program.
16.	19	Table 3: 3.3 acres Pasture Pre-Project Land Cover	Reference “Pasture” for Project Site and note change from “Forest” to “Forested”.	Project Site: 3.3 Acres Impervious to <u>Pasture</u> Forested Transfer site: 3.3 Acres Pasture to <u>Forested</u>
17.	19	Determining a Project’s Stormwater Improvement Transfer Obligation	For clarity, consider adding a reference to the example in Table 3 per suggested edit.	<u>For the example in Table 3.</u> The Stormwater Control Transfer Program allows the proponent to construct flow control facilities or purchase available capacity in an existing facility in a high priority watershed that serves a contributing area with at least: <ul style="list-style-type: none"> • 3.3 acres of Pasture • 1.0 acres of Lawn/Landscape • 0.2 acres of Effective Impervious Area

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18.	20	Table 4: Project Transfer Obligation Table, Section 1	<p>Section 1 assumes that all projects are required to match the pre-developed condition of forested land cover. Some projects are allowed to meet the pre-developed condition of Pasture or existing land cover.</p> <p>Instead of tracking surface to Forest Debit, the Project Transfer Obligation Table should include one line that identifies the pre-developed condition the project is required to meet.</p>	<p><u>Required pre-developed condition to be matched (check one):</u> <input type="checkbox"/> Forested <input type="checkbox"/> Pasture <input type="checkbox"/> Existing Land Cover</p> <p>1. Stormwater Flow Control Improvement Requirements Transferred to Facility in High Priority Watershed</p> <p>a. Impervious <u>Surface Area</u> to Forest Debit</p> <p>b. Other Hard Surface <u>Area</u> to Forest Debit</p> <p>c. Lawn/landscape <u>Area</u> to Forest Debit</p> <p>d. Pasture <u>Area</u> to Forest Debit</p>
19.	20	Table 4: Project Transfer Obligation Table	Typo.	Section 4, should be labeled “3”.
20.	27-28	Att. 1	Guidance should clarify that it applies only to out-of-basin transfers. Because the guidance focusses on out-of-basin transfer, it is not the place to create or expand guidance on in-basin transfer. Att. 1 and the related definition (comment below) go beyond the intended scope, for example assuming "capacity credits" for in-basin transfer.	Delete Att. 1 and clarify that the guidance only addresses out-of-basin transfer.
21.	29	Glossary	See above	Delete "In-basin transfer" definition.