

Department of Ecology: “Measurable Progress Definition” Response to Comments: 7/15/2014

Commenter	Comment Type	Comment	Ecology Response
City of Spokane	General	[The City of Spokane] would like to thank Ecology for all of their hard and thoughtful work in reviewing and formulating a draft definition of measurable progress. We also would like to thank Ecology for its partnership and guidance throughout the development and formation of the Toxics Task Force and its guidance and support towards meeting permit requirements.	Noted.
City of Spokane	General	[The City of Spokane] agrees that defining measurable progress is an ongoing process and that achieving the goal of water quality will take several permit cycles. As such, use of the concepts of Inputs, Outputs, and Outcomes, as they change over time, may be a helpful evaluation tool.	Noted.
City of Spokane	General	[The City of Spokane] agrees that reduction of toxic inputs to the Spokane River, such as wastewater, stormwater, and CSO outfall controls should be recognized as an outcome because environmental response in the riverine system may take several permit cycles or even decades to achieve. Spokane has been a regular and active paying participant in the Toxics Task Force since its inception, in addition to being an active participant in the Spokane River Stewardship Partners.	Noted.
City of Spokane	General	[The City of Spokane] has and will continue to make measurable progress towards meeting applicable water quality criteria for PCBs once the Integrated Plan is approved and the funding commitment secured. Through partnership with Ecology, Spokane created an Integrated Clean Water Plan, which on March 14, 2014 was submitted to Ecology for review and approval. This Plan provides for substantial reduction of PCBs from reaching the Spokane River by addressing and removing stormwater in addition to CSOs and municipal wastewater treatment, including the next level of treatment (NLT).	Noted.

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		<p>Spokane has voluntarily included stormwater management in its integrated planning process as well as operating the NLT membrane filtration system through the non-critical season to reduce pollutant loads to the Spokane River. Once this Integrated Plan is approved and the Interlocal Agreement between Spokane and Ecology is finalized, Spokane will be positioned to undertake the outlined projects in order to achieve the goal of a Cleaner River Faster. This benefits the Spokane River as well as the entire region.</p>	
SRSP	General	<p>Our comments regarding the definition of “measurable progress” as proposed in the March 26, 2014 draft are included both as general themes in this letter and as specific track change comments and edits that address the general themes discussed below. The specific changes are shown on the definition in the attached word document.</p>	<p>Noted.</p> <p>Ecology’s specific responses are noted in response to the “Specific” comments.</p>
SRSP	General	<p>The NPDES permit language regarding measurable progress states:</p> <p><i>If Ecology determines the Task Force is failing to make measurable progress toward meeting applicable water quality criteria for PCBs, Ecology would be obligated to proceed with development of a TMDL in the Spokane River for PCBs or determine an alternative to ensure water quality standards are met.</i></p> <p>The March 26, 2014 draft definition refers to measureable progress as “achieving water quality criteria” rather than “making progress toward achieving water quality criteria”, consistent with the definition in the permit language.</p>	<p>Noted. One purpose of this definition is to establish the process that Ecology will use for determining measurable progress.</p> <p>A second purpose is to identify the criteria that obligate Ecology to “proceed with the development of a TMDL in the Spokane River for PCBs or determine an alternative to ensure that water quality standards are met.”</p> <p>Achieving water quality criteria is one measure that progress has been made, but is not the sole measure.</p>

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SRSP	General	Reference to “toxics” versus PCBs. NPDES permit language refers specifically to measurable progress on reducing PCBs while the MOA for the SRRTTF refers to toxics (defined on page 7 of the MOA as PCBs and Dioxins that were included on the Washington 2008, Category 5, 303(d) list). We have suggested edits to this definition of measurable progress that provides specificity on “toxics”.	Noted.
SRSP	General	It would be helpful to focus the document on the definition of Measurable Progress, consistent with the SRRTTF Memorandum of Agreement, rather than the consequences of not having “achieved” Measurable Progress. Much of the draft document discusses consequences rather than the actual definition.	<p>Noted. Ecology was requested to clarify what “measurable progress” means. This definition includes a process component (how and when measurable progress is evaluated) and a criteria component (what are Ecology’s expectations and what constitutes “failing to make” measurable progress).</p> <p>Language was added in the Adaptive Management Section, Figure 1 was revised, and a paragraph added at the end of Attachment A to further describe what Ecology would consider to be measurable progress.</p>
SRSP	General	“Outcomes” are referred to both on page two of the subject draft and in Attachment A of the subject draft. Language changes have been suggested that provide for a more consistent definition of “Outcomes” throughout the entire document.	Noted.
SRSP	General	The MOA extends the measurable progress requirement to many stakeholders and signatories of the MOA. While we understand that this is a requirement of our permits, this draft definition focuses the measurable progress responsibility on the permittees, when it is, in fact, a collaborative effort by the community.	<p>Noted. Ecology agrees that community collaborative effort is an important factor in being able to achieve measurable progress.</p> <p>In addition, this definition is intended to clarify to the permittees the meaning of “making progress toward achieving water quality criteria.” In simple terms, Ecology expects the permittees to</p>

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			work collaboratively (inputs) and productively (create outputs). Ecology expects the results of these efforts to achieve measurable environmental results (outcomes), with the ultimate goal of achieving the applicable water quality criteria.
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SRSP	Specific	Line 8: Washington State Department of Ecology has flexibility in how and when a TMDL is developed.	Accepted.
SRSP	Specific	Line 10: A traditional TMDL process begins with calculating waste load and load allocations and then reducing sources of pollutants. Because it can take a long time to gather data for the allocations, a traditional TMDL can take years or over a decades to complete and implement. Since there are competing priorities for the resources that can be devoted to the development of a specific TMDL, progress on addressing water quality issues can be made by taking interim actions that are focused on An alternative approach focuses on making immediate source reductions while collecting load allocation data at the same time. As a collaborative effort, this leverages the abilities and resources of all the waterbody stakeholders and fosters a level of cooperation and creativity that ultimately leads to more immediate environmental improvements to water quality.	Accepted. Data is considered to include load allocation data.
SRSP	Global change	- applicable water quality standards (or criteria) for PCBs	Accepted. Because the NPDES language specifically refers to PCBs, Ecology’s definition of “measurable progress” is limited to PCBs in the Spokane River. If other water quality standards become applicable, then this definition would be revised, or a new definition developed to address those standards.

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SRSP	Specific	Line 20: In 2011, Ecology, in consultation with the EPA and Spokane Tribe of Indians, included language in the NPDES permits for the Spokane River dischargers in Washington that requires the permittees to create and participate in the Spokane River Regional Toxics Task Force (SRRTTF), whose goal is to develop a comprehensive plan to bring the Spokane River into compliance with applicable water quality standards for PCBs . The permits state that if Ecology determines that the SRRTTF is failing to make measurable progress toward meeting applicable water quality criteria for PCBs, also obligate Ecology would be obligated to proceed with developing development of a TMDL for PCBs in the Spokane River for PCBs or determine an alternative to ensure water quality standards are met. if Ecology determines the Task Force is failing to make measurable progress towards meeting applicable water quality criteria.	Accepted.
SRSP	Specific	Line 35: The Washington permits state that if Ecology determines that the Task Force is failing to make measurable progress toward meeting applicable water criteria for PCBs quality standards , Ecology is obligated <i>“to proceed with development of a TMDL in the Spokane River for PCBs or determine an alternative to ensure water quality standards are met.” (SRRTTF Memorandum of Agreement).</i>	Accepted.

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SRSP	Specific	<p>Line 39: In other words, <i>measurable progress</i> reflects the success is the actions of the <i>Task Force</i> in developing a comprehensive plan reducing PCBs toxics in to the Spokane River and making progress toward achieving the applicable Water Quality Standards criteria for PCBs. Permittees Stakeholders contribute to the success measurable progress through participation in, participating in the activities of and funding of the Task Force.</p>	<p>Ecology was requested to clarify what “measurable progress” means. This definition includes a process component (how and when measurable progress is evaluated) and a criteria component (what are Ecology’s expectations).</p> <p>This is broader than simply a list of actions and a plan to act but also includes evidence that the actions are achieving the applicable water quality criteria for PCBs.</p> <p>Ecology intends for this definition to clarify the responsibilities of the permittees with respect to the Task Force interactions. In simple terms, Ecology expects the permittees to work with the Task Force collaboratively (inputs) and productively (create outputs).</p> <p>Ecology anticipates that the results of these efforts will achieve measurable environmental results (outcomes), with the ultimate goal of achieving the applicable water quality criteria.</p> <p>Revised language is as follows:</p> <p><i>In other words, measurable progress reflects the success of the <u>Task Force</u> towards reducing PCBs in the Spokane River and towards achieving the applicable water quality criteria for PCBs. <u>Permittees</u> and stakeholders contribute to the success through participating in the activities of the Task Force.</i></p>
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SRSP	Specific	Line 51: It is important to define measurable progress in a timely manner for use in the next permit cycle. However, determination of measurable progress is ongoing and the water quality goals achieving the goal of bringing the Spokane River into compliance with applicable water quality standards for PCBs may take several permit cycles.	Accepted. Revised to: <i>It is important to define measurable progress in a timely manner for use in the next permit cycle. However, determination of measurable progress is ongoing and achieving the goal of bringing the Spokane River into compliance with applicable water quality standards for PCBs may take several 5-year permit cycles.</i>
SRSP	Specific	Line 59: Progress toward compliance with the applicable water quality criteria for PCBs in the Spokane River achievement of the water quality standards, health standards, and/or measured reductions of toxics to or in the Spokane River.	Revised to: <i>Progress toward achievement of the applicable water quality criteria for PCBs in the Spokane River which could be demonstrated by achievement of the applicable water quality standards, health standards, and/or measured reductions of toxics to or in the Spokane River.</i>
SRSP	Specific	Line 62: The relative importance of levels of progress made in the areas of inputs, outputs, and outcomes changes over time. For example, progress made relative to inputs is likely greater early in the life of the Task Force as the SRRTTF develops the structures, systems, and plans needed to conduct its business. As reductions occur, Over time, emphasis shifts towards outcomes, or the demonstration of progress through environmental results. will tend to dominate the level of progress made.	Revised to: <i>The relative levels of progress made in the areas of inputs, outputs, and outcomes changes over time. For example, progress made relative to inputs is likely greater early in the life of the Task Force as the SRRTTF develops the structures, systems, and plans needed to conduct its business. Over time outcomes, with the demonstration of progress through environmental results, are expected to dominate the level of progress made.</i>
SRSP	Specific	Line 69: The evaluation of measurable progress is an <i>adaptive management</i> concept which focuses on PCB toxics reductions in the river while fostering the collaborative vision of the Task Force. Both inputs (organizing and working collaboratively) and outputs (creating work products) must exist occur in order to	Accepted.

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		achieve outcomes (toxics reductions and environmental/health goals).	
SRSP	Specific	<p>Line 73: At the end of each permit cycle, Ecology makes a measurable progress determination. The agency makes the determination by answering the assessing status against three fundamental questions criteria:</p> <ol style="list-style-type: none"> 1) Is the Task Force still working together in a collaborative manner? 2) Is the Task Force still moving forward on activities that will lead to identification of sources, reduction of toxics in the river, the development of best management practices, and a comprehensive plan for progress toward achieving PCB water quality standards? 3) Is there environmental evidence that the comprehensive plan is making progress is being made towards achieving the applicable water criteria for PCBs in the Spokane River water quality standards? 	<p>The three criteria (questions) were developed based on feedback from the stakeholder interviews. The third criterion is intended to describe the importance of measuring on-the-ground success. Activities that have been implemented in a comprehensive plan that can be documented as reducing PCB load are included in this criterion.</p> <p>Revised language: <i>At the end of each permit cycle, Ecology makes a measurable progress determination. The agency makes the determination by assessing the status of three fundamental criteria:</i></p> <ol style="list-style-type: none"> 1) <i>Is the Task Force still working together in a collaborative manner?</i> 2) <i>Is the Task Force still moving forward on activities that will lead to identification of sources, reduction of PCBs in the river, the development of best management practices, and a comprehensive plan for progress toward achieving applicable water quality criteria for PCBs?</i> 3) <i>Is there environmental evidence that progress is being made towards achieving the applicable water quality criteria for PCBs in the Spokane River?</i>

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<p>SRSP</p>	<p>Specific</p>	<p>Line 83: If the answer to question 1) or 2) is “no,” then the Task Force is not achieving its stated purpose, vision, or goals and Ecology will develop a TMDL or alternative process to achieve the water quality standards</p> <p>If the answer to question 3) is “yes,” and the river meets water quality standards then the Task Force has achieved its goal.</p> <p>However, Ecology recognizes that the environmental response to reductions in PCB loading is complex, which reinforces the need for an innovative adaptive management approach. If the answer to any of the above questions the question 3) is “no,” then Ecology will reevaluate the Task Force activities and results. In this adaptive management step, Ecology and the Task Force will identify actions and implement needed changes needed to make progress toward achieving needed to achieve applicable water quality standards for PCBs. If additional actions do not result in compliance with water quality standards, Ecology will develop a TMDL or alternative process to achieve water quality standards.</p>	<p>Ecology was requested to clarify what “measurable progress” means. This definition includes a process component (how and when measurable progress is evaluated) and a criteria component (what are Ecology’s expectations and what constitutes “failing to make” measurable progress). This section describes how the criteria will be evaluated and at what point Ecology will determine that it is necessary “to develop a TMDL or alternative process to achieve water quality standards.”</p> <p>Revised Language: <i>Ecology recognizes that the environmental response to reductions in PCB loading is complex, which reinforces the need for an adaptive management approach. To make the measurable progress determination, Ecology will first evaluate evidence that demonstrates whether or not the water quality standards for PCB have been achieved. If water quality standards have been achieved then the Task Force has achieved its goal, measurable progress has been demonstrated, and Ecology does not need to develop a TMDL.</i></p> <p><i>There are certain criteria that Ecology believes must be in place in order to demonstrate measurable progress. Specifically, the Task Force must be functioning in a collaborative manner and continue to engage in activities that will lead to the reduction of PCBs in the river.</i></p> <p><i>Environmental response will not be the sole</i></p>
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			<i>will be taken to identify and implement changes needed to achieve the applicable water quality standards.</i>
SRSP	Specific	Figure 1 evaluates only the outcomes	<p>Revised Figure 1</p> <ul style="list-style-type: none"> • Created the first step as an evaluation of the <i>compliance</i> with applicable water quality standards for PCBs (GOAL). If the goal is achieved, then measurable progress is demonstrated. • Revised OUTCOMES section by combining boxes and changing first bullet to demonstration of <i>progress</i> towards applicable water quality standards for PCBs. • If answers to inputs, outputs, outcomes questions are “yes” then measurable progress has been demonstrated and adaptive management is implemented. Should there be no inputs, outputs, or outcomes, then Ecology is obligated to proceed with development of a TMDL in the Spokane River for PCBs or determine an alternative to ensure water quality standards are met. • Removed return arrows to inputs, outputs, outcomes. Evaluation process ends when a measurable progress determination has been made.
SRSP	Specific	Att A. Inputs, Paragraph: Delete, “If inputs are absent or not productive, then Ecology would choose to develop a TMDL or alternative process.”	<p>There are certain criteria that Ecology believes must be in place in order to make measurable progress. Specifically, the Task Force must be functioning in a collaborative manner.</p> <p>Revised language:</p>

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			<i>Ecology is obligated to proceed with the development of a TMDL in the Spokane River for PCBs or determine an alternative to ensure water quality standards are met if, in the evaluation of measurable progress, inputs are absent or not productive.</i>
SRSP	Specific	Att B. Outputs, Paragraph: Delete, “If outputs are absent or not productive, then Ecology would choose to develop a TMDL or alternative process.”	<p>There are certain criteria that Ecology believes must be in place in order to make measurable progress. Specifically, the Task Force must continue to engage in activities that will lead to the reduction of PCBs in the river.</p> <p>Revised language: <i>Ecology is obligated to proceed with the development of a TMDL in the Spokane River for PCBs or determine an alternative to ensure water quality standards are met if, in the evaluation of measurable progress, outputs are absent or not productive.</i></p>
SRSP	Typo	Att B. Outputs, Question 2: “Further” to “further”	Accepted.
SRSP	Specific	Att B. Outputs, Question 3: “Did the Task Force work towards <i>identifying and implementing or beginning to implementing</i> appropriate actions needed to make measurable progress towards meeting applicable water quality standards for PCBs? ”	Accepted.
SRSP	Specific	Att B. Outputs, Question 3, last bullet, add: <ul style="list-style-type: none"> • Improvements to treatment facilities 	<p>Accepted.</p> <p>Also added:</p> <ul style="list-style-type: none"> • Regulatory reform to eliminate new PCBs from entering the environment.
SRSP	Specific	Att B. Outputs, last paragraph: Ecology will also evaluate if specific source reduction activities have been taken, and the amount of PCB that has been removed as a result of those activities. If source	Revised and moved to Outcomes Criterion

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		<p>reduction activities do not result in decreasing toxics in the environment river, then Ecology and the Task Force will reevaluate the approach. If source reduction activities are absent then Ecology would choose to develop a TMDL or alternative process.</p>	
		<p>Att B, Outcomes, Paragraph: “Outcomes are the environmental results in the river and quantifiable measurable source reduction actions in the river. Examples of measures include decreasing levels of PCB in fish and the water column, progress toward achievement of water quality standards, regulatory reform to eliminate new PCBs from entering the environment, permit compliance status and environmental trends as well as grams measureable amounts of PCB eliminated from river discharges, stormwater, and other sources isolated, removed from the water, or watershed. Outcomes are important because they measure the effectiveness of the actions that have been taken as well as the amount of PCB known to have been removed from the watershed. Outcomes are important throughout the entire process but of higher priority during the second after the first permit cycle and beyond.”</p>	<p>Response:</p> <ol style="list-style-type: none"> 1) Water quality standard: changed to “applicable water quality standard for PCBs” and deleted “progress toward.” The achievement water quality standards is the ultimate goal. The concept of “progress toward” is captured in the phrase “decreasing levels of PCB in fish.” 2) Moved, “regulatory reform to eliminate new PCBs from entering the environment” as a bullet in the output section. <p>Revised language”</p> <p><i>Outcomes are the environmental results and measurable source reductions in the river as well as quantifiable source reduction actions. Outcomes indicate the effectiveness of actions that have been taken and quantify the amount of PCB known to have been removed from the Spokane River and Spokane River watershed. Outcomes are important throughout the entire process but of higher priority after the first permit cycle. Examples of output measures include trending levels of PCB in fish and the water column, achievement of the applicable water quality standard for PCBs, permit compliance status and environmental trends relating to PCBs.</i></p>

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			<p><i>Ecology will evaluate if specific source reduction activities have been taken, and the amount of PCB that has been removed as a result of those activities. This includes measured amounts of PCB eliminated, isolated, or removed from the water, or watershed; including PCB eliminated from river discharges, stormwater, and other sources. If source reduction activities do not result in decreasing toxics in the river, then Ecology and the Task Force will reevaluate the approach.</i></p> <p><i>Ecology is obligated to proceed with the development of a TMDL in the Spokane River for PCBs or determine an alternative to ensure water quality standards are met if, in the evaluation of measurable progress, source reduction activities are absent or permittees are not in compliance with permit conditions.</i></p>
SRSP	Specific	<p>Is progress toward achieving water quality criteria for PCBs Were the applicable water quality criteria for PCBs Standards for the State of Washington, State of Idaho, and Spokane Tribe of Indians achieved being made?</p>	<p>The achievement of the water quality criteria for PCBs was described as an important in the original stakeholder discussions.</p> <p>Revised language:</p> <p><i>Were the applicable water quality standards for PCBs achieved?</i></p> <p><i>Is progress toward achieving water quality standards for PCBs being made?</i></p>
SRSP	Specific	<p>Is progress toward meeting the interests of public and environmental health being achieved? Were the applicable standards and interests of public and environmental health achieved?</p>	<p>The achievement of the applicable standards and interests of public and environmental health was described as an important in the original stakeholder discussions. No change was made.</p> <p>Added: <i>Is progress toward meeting the interests of public and environmental health being achieved?</i></p>

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SRSP	Specific	<ul style="list-style-type: none"> • Eliminated, Reduced, removed, or isolated sources of PCBs from the river or watershed? 	Elimination of PCB from the Spokane River or watershed is an important form of source reduction. No change was made.
SRSP	Grammar	Last paragraph: “PCB” to “PCBs”	Accepted.