

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA – STAFF BRIEFING

Item No. 7b

Date of Meeting November 2, 2010

DATE: October 26, 2010

TO: Tay Yoshitani, Chief Executive Officer

FROM: Stephanie Jones Stebbins, Director Seaport Environmental Programs
Mike McLaughlin, Director Cruise and Industrial Properties

SUBJECT: Cruise Ship Lines Memorandum of Understanding
Proposed Options for an MOU Amendment Process

BACKGROUND:

The Department of Ecology, the Port of Seattle, and Northwest Cruise Ship Association negotiated a Memorandum of Understanding (MOU) in 2004 to establish voluntary actions aimed at improving the treatment of waste discharges from cruise ships operating in Washington waters. The waters subject to the MOU include the Puget Sound and the Strait of Juan de Fuca south of the international boundary with Canada; and along Washington's Pacific Coast extending for three miles seaward. The original Memorandum was signed on April 20, 2004, and has been amended four times. The last amendment was signed on May 19, 2008. At the January 20, 2010, annual Cruise MOU meeting, three amendments were proposed by outside parties. Because there was not unanimous support of any of these amendments by the signatories, none of them were adopted.

The MOU does not describe or define a process for amendments. Until this year, all amendments have been proposed by the MOU signatories. The process this year was different in several ways. Three amendments were proposed by outside parties, and one of the amendments was brought up in the meeting itself. Given the lack of time to consider at least two of the three amendments, a decision was made during the meeting to post the proposed amendments for a 60 day public comment period. The MOU participants then reconvened. None of the amendments were agreed to unanimously, and none were adopted. The process which occurred this year makes it most certain that a more clear and defined formal process is needed to propose and adopt amendments to the MOU.

The goal is to establish an amendment process that provides clarity and is supported by both the public and the MOU signatories. The proposed procedures would couple a more

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robust public process with less frequent consideration of amendments. The process proposed is more time consuming and while the signatories agree that a more robust public process is appropriate, none of the parties are currently staffed to handle a process like this annually.

BRIEFING OUTLINE

Following are two options for the MOU amendment process. Both options include a public hearing and both define criteria for amendments. Any amendment requires all three parties to agree to it. That would not change. One of the options defines a process for the public to propose amendments.

Option One: Amendments can only be introduced by one of the three MOU signatories. Unless there is a specific urgent need, determined by the MOU signatories, amendments will be considered every three years. If a member of the public wanted to propose an amendment, they would need to propose it to one of the three MOU signatory organizations and ask them to carry it forward for consideration of all of the signatories.

Option Two: As the two public agencies signatory to the MOU, the Port and the Department of Ecology would post a 21-day call for proposed amendments. Proposed amendments must then be submitted within three weeks of the posted request for amendments. The three MOU signatory organizations would then review any proposed amendments submitted and determine whether any of the MOU participants would sponsor the proposed amendment. The sponsored amendments would then be posted for a public review/comment period prior to being voted on by the signatories. Unless there is a specific urgent need, determined by the MOU signatories, amendments will be considered every three years.

Option two is the approach tentatively agreed upon by the MOU partners earlier this year, except that the proposed frequency of amendments was modified. Staff recommends a commitment to presenting the proposed amendments to the Port Commission, following the public review/comment period, to determine the Port's official position by a formal vote of the Commission. Port staff would present the results of the vote to the MOU group as our Port position on the amendment

Criteria for Proposed Amendments

Under either option, the proposed amendments must comply with certain requirements. Both options include the following evaluation criteria, which must be met in order for the proposed amendment to be considered:

All proposed amendments meeting the following criteria will be advanced for further review and comment:

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- Proposed amendments shall only concern cruise ship activity applicable to the MOU or within MOU boundaries..
- Proposed amendments shall not duplicate or replace existing regulations that govern cruise ships; however, they may be more stringent.
- Proposed amendments must address the following, in detail:
 - The reason for the proposed amendment (e.g., what environmental concern it addresses).
 - How the amendment is applicable to or compatible to the MOU.
 - The anticipated benefits of the amendment.
 - Include scientific data that supports the proposed amendment.
 - In order for an amendment to be adopted, it must receive the unanimous approval of the MOU signatories.

MOU signatories reserve the right to address emergency issues as they arise and amend the MOU accordingly, outside of the cycle proposed here.

OTHER DOCUMENTS ASSOCIATED WITH THIS BRIEFING:

PowerPoint presentation.

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:

April 6, 2010 - Briefing on the Cruise Ship Lines Memorandum of Understanding.