

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA – STAFF BRIEFING**

**Item No.** 7a  
**Date of Meeting** February 1, 2011

**DATE:** January 24, 2011

**TO:** Tay Yoshitani, Chief Executive Officer

**FROM:** Elizabeth Leavitt, Director, Aviation Planning & Environmental Programs  
Stephanie Jones Stebbins, Director, Seaport Planning & Environmental Programs  
Michael Lufkin, Senior Environmental Program Manager

**SUBJECT:** Proposed Revisions to the Port’s Policies Related to the State Environmental Policy Act (SEPA)

**SYNOPSIS:**

This briefing will present proposed revisions to the Port’s existing State Environmental Policy Act (SEPA) Procedures and summarize a new proposed Port SEPA Policy addressing greenhouse gas emissions and climate change. These “agency SEPA procedures” must be formally designated by rule, ordinance or resolution.

Port staff believe that the Port’s current SEPA Procedures, which are now covered in three separate resolutions, should be compiled and updated into a single Port SEPA resolution that conforms with changes that have been made to Washington’s SEPA laws and rules and reflects the current organizational structure of the Port. Port staff also believe that the Port should clarify in a resolution how climate considerations should be incorporated into its SEPA review when it is acting as a “lead agency.”

After this briefing, the Port will put the two proposed resolutions out for a 30-day public comment period. On March 22, 2011, staff plan to return to the Commission for First Reading of the proposed resolutions, which would include a discussion of the comments received from the public and any proposed changes to the resolutions. Second Reading and Final Passage of the resolutions is anticipated at the April 12, 2011 meeting.

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### **BACKGROUND:**

The purpose of this staff briefing is to present: (1) proposed revisions to existing Port SEPA Procedures, and (2) a proposed new Port SEPA Policy addressing the assessment of greenhouse gas emissions and climate change under SEPA.

The State Environmental Policy Act or SEPA, Chapter 43.21C RCW, was enacted in 1971 to "promote the policy of fully informed decision making by government bodies when undertaking major actions significantly affecting the quality of the environment." SEPA requires public agencies to: (1) consider the environmental consequences of their proposed actions; (2) identify and evaluate probable impacts, alternatives and mitigation measures; and (3) encourage public involvement in agency decision making. Local government agencies like the Port must adopt policies and procedures for implementing SEPA. These "agency SEPA procedures" must be formally designated by rule, ordinance, or resolution.

#### **Proposed Revisions to Existing Port SEPA Procedures**

The Commission has previously adopted three resolutions implementing SEPA: Resolution No. 3028 (adopted December 1987), Resolution No. 3211 (adopted February 1996), and Resolution No. 3539 (adopted May 2005). Collectively, these three resolutions identify the procedures used by the Port for implementing SEPA, including, the identity of the responsible official, the method(s) for public notice, the procedures for administrative appeals, if any, and other information about the Port's review procedures.

From time to time it becomes necessary to update, amend and revise SEPA policies and procedures due to changes in law and/or operations of the Port and in order to improve the effectiveness of such policies and procedures. Some of the proposed revisions to the existing Port SEPA Procedures include:

- Compilation of the procedures into a single Port SEPA resolution;
- Conformity with changes that have been made to state SEPA laws and rules;
- Revisions that reflect the current organizational structure of the Port;
- Addition of a Table of Contents; and
- General cleanup and edits that aim to make the document easier to use and read.

#### **Proposed SEPA Climate Change Policy**

SEPA was adopted to ensure that environmental values are considered during decision-making by state and local agencies. Until relatively recently, however, climate change and greenhouse gas pollutants have been given relatively little or no consideration in environmental review documents. This is changing rapidly, however. Many state and local governments, both here in Washington state and around the country, are beginning to develop policies, regulations, and guidance on how, where, and when to address

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climate change in their environmental review processes. Some are doing so because their failure to address climate change was challenged in court as contrary to SEPA-like statutes. Others are simply recognizing the importance and value of incorporating climate change considerations into governmental decision-making, resource and development planning, and permitting and approval.

To date, the Port has not adopted any policies related to the assessment of greenhouse gas emissions and climate change under SEPA. Port environmental staff has, over the past several years, begun including estimates of GHG emissions for certain projects as part of the environmental review process. Staff believes it is in the best interest of the Port to act now to clarify how climate considerations should be incorporated into its SEPA review when it is acting as a “lead agency”. Towards that end, the proposed SEPA Climate Change Policy addresses the following:

- Clarifying that the Port will consider greenhouse gas emissions and the effect of changes in climate on proposed actions as a mandatory component of SEPA environmental review;
- Requiring the identification and calculation of greenhouse gas emissions associated with a project proposal, within reasonable spatial and temporal boundaries, as part of SEPA environmental review;
- Encouraging the identification of mitigation measures that the Port may voluntarily incorporate to reduce a project’s greenhouse gas emissions below a level of significance or to reduce the Port’s greenhouse gas emission baseline;
- Acknowledging that when making the “threshold determination” under SEPA there is no uniform standard for determining the “significance” of a project’s greenhouse gas emissions impacts;
- Acknowledging that any decision by the Port as to whether there is an adverse environmental impact from a proposal will be made on a case-by-case basis;
- Identifying factors that may be considered by the Port when determining whether a project’s greenhouse gas emission constitute a “significant” impact;
- Considering the effects of climate change on projects that are designed for long-term utility and located in areas that are considered vulnerable to specific effects of climate change (such as increasing sea level or ecological change) within the project’s timeframe.

### **NEXT STEPS:**

Today’s briefing is intended to provide the Commission with some background information and an overview of Staff’s proposed changes to Port SEPA policies and procedures. The next step is to put the proposed resolutions out for a 30-day public comment period. The public comment period will begin in the next several days and will include notice in regional newspapers, distribution to individuals and organizations on the Port SEPA mailing list, and posting on the Port’s external website. On March 22, 2011, staff plans to return to the Commission for First Reading of the proposed resolutions and to discuss comments received

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from the public and any proposed changes to the resolutions. Second Reading and Final Passage of the resolutions will then be requested at the April 12, 2011 Commission meeting.

### **OTHER DOCUMENTS ASSOCIATED WITH THIS BRIEFING:**

- PowerPoint presentation
- Draft of Proposed Resolution Revising Existing Port SEPA Procedures
- Draft of Proposed Resolution of New SEPA Climate Change Policy

### **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:**

None