

19 March 2021

Department of Ecology
State of Washington
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CRUISE LINES INTERNATIONAL ASSOCIATION (CLIA) COMMENTS ON THE PROPOSED AMENDMENTS TO THE WASHINGTON STATE MEMORANDUM OF UNDERSTANDING

Cruise Lines International Association (CLIA) is the world's largest cruise industry trade association, providing a unified voice and leading authority of the global cruise community. The association has 15 offices globally with representation in North and South America, Europe, Asia, and Australasia. CLIA supports policies and practices that foster a safe, secure, healthy, and sustainable cruise ship environment for the more than 27 million passengers who cruise annually and is dedicated to promoting the cruise travel experience. The CLIA Community is comprised of the world's most prestigious ocean, river, and specialty cruise lines; a highly trained and certified travel agent community; and cruise line suppliers and partners, including ports & destinations, ship development, suppliers, and business services. The organization's mission is to be the unified global organization that helps its members succeed by advocating, educating, and promoting for the common interests of the cruise community.

Washington State Memorandum of Understanding

The Washington State Memorandum of Understanding (MOU), a voluntary agreement, was signed in 2004 by its signatories, Cruise Lines International Association North West & Canada, the Port of Seattle, and the Washington State Department of Ecology (DOE).

The waters subject to the MOU include Puget Sound and the Strait of Juan de Fuca south of the international boundary with Canada; along Washington's Pacific Coast extending three miles seaward; and the Olympic Coast National Marine Sanctuary.

The MOU represents an agreement that bans the discharge of wastewater to Washington state waters from cruise ships, except discharges treated with advanced wastewater treatment systems (AWTS) where an application to discharge is approved by the DOE. To date, no application or approval for wastewater discharge has been requested or approved by the DOE. Furthermore, the MOU permits the DOE to inspect the wastewater treatment systems and records on each vessel thus confirming that the terms of the MOU have been met. The DOE receives ships' logs on an annual basis detailing all discharges within MOU waters.

Every three years, the MOU parties engage in a public consultation on amendment proposals to update the MOU based on specific criteria set out for proposed amendments.

Proposed amendments are limited to matters within the agreed physical boundaries of the MOU, should not duplicate or replace existing regulations, and must receive sponsorship of at least one of the MOU signatories to proceed to public comment. In addition, an amendment proposal must be applicable to the purpose of the MOU, notate the anticipated benefits, and include scientific data to support the proposed amendment.

CLIA and its cruise line Members recognize the intent of the MOU for parties to work together to protect the waters of Washington State. CLIA Members adhere to the provisions of the MOU and offer the following comments regarding the proposed amendments.

2021 Proposed Amendments

Proposed amendment “Institute a ban on the discharge of exhaust gas scrubber washwater from all scrubber types, including bleed off or sludges, in MOU waters.”

CLIA Comments: The International Maritime Organization (IMO) has adopted stringent guidelines for the discharge of washwater and residue from exhaust gas cleaning systems. Annex VI of the IMO’s MARPOL convention is the main international convention addressing air pollution prevention requirements from ocean-going vessels. Under Annex VI, the IMO has banned all ships from using fuels with a sulfur content above 0.5%. Regulation 4 of MARPOL Annex VI allows the use of equivalent technologies to achieve the same or better emissions result. The use of exhaust gas cleaning systems (EGCS) on large ocean-going vessels, as accepted by their flag states, is an approved alternative compliance means to meet the 0.5% low sulfur limit. In addition, amendments to MARPOL Annex VI established the North American Emission Control Area (ECA), which prohibits the sulfur content of fuel oil to exceed 0.10%. Ships sailing in MOU waters have been required to meet ECA requirements since 2015.

The United States is a party to MARPOL Annex VI and has implemented its provisions in Federal statutes in the Act to Prevent Pollution from Ships (APPS, 33 U.S.C. §§1905-1915). In 2011, the U.S. Environmental Protection Agency (EPA) and the United States Coast Guard (USCG) entered into a Memorandum of Understanding, with the agreement to jointly cooperate and enforce the provisions of MARPOL Annex VI.

In addition to APPS, the U.S. EPA further harmonized U.S. requirements with international guidelines by adopting the Annex VI discharge standards in the 2013 Vessel General Permit (VGP), as well as in the proposed standards for the Vessel Incidental Discharge Act (VIDA). As provided in Part 2.2.26 of the VGP, all vessel owners and operators are to ensure that all EGCS discharges are consistent with existing U.S. law, including the prohibition against the discharge of oil in quantities that may be harmful. Sludge generated from EGCS washwater may not be discharged in waters subject to this permit. Moreover, the EPA requires that every vessel’s EGCS system which discharges into the waters subject to this permit are continuously monitored. The monitoring requirements are consistent with IMO guidelines for exhaust gas cleaning systems in resolution MEPC 184(59) of the IMO Marine Environmental Protection Committee.

The EPA has proposed a performance standard for EGCS discharges under the Vessel Incidental Discharge Act based on the IMO's current guidelines for discharges (MEPC 259(68)). Uniform performance standards and enforcement of environmental requirements at the international, national, and state level provides, especially for ships that move frequently between multiple coastal jurisdictions, an important consideration in ship and equipment design, crew training and compliance. The EPA's approach, consistent with the IMO's international guidance, should be the model for local application in MOU waters.

The use of exhaust gas cleaning systems is an innovative and highly effective technology to remove particulate matter and sulfur from the air. Under the guidance of the IMO and implementation by Member states, including the United States, as reflected in APPS, VGP, and the VIDA, the use of exhaust gas cleaning systems is approved and monitored both internationally and domestically. The MOU amendment criteria states that a proposed amendment must include scientific data that supports the proposed amendment. At this time, no new scientific evidence has been provided to support this proposed amendment or to indicate the guidelines under MEPC 259(68), APPS, VGP 2.2.26, or the proposed VIDA standards are insufficient.

CLIA invites the Department of Ecology and interested parties to consider the scientific data already available and presented in the [CE Delft Study](#). The study uses empirical data from almost 300 washwater samples and employs the MAMPEC-BW model, a model that is widely used in a regulatory context, including ballast water. CLIA has encouraged the DOE to review and apply the MAMPEC-BW model to better understand waters specific to the MOU and to continue the conversation when the science has been more adequately researched. The CE Delft report and its findings follow two additional studies released in 2019 which were conducted to further understand the impact of EGCS on marine environments. This includes a two-year [study conducted by DNV GL](#), which found washwater samples from 53 cruise ships equipped with EGCS to be below the limits set by major international water quality standards. [Another recent study, conducted by the Japanese Ministry of Land, Infrastructure, Transport and Tourism](#), found the impact of scrubbers on water quality and marine life to be negligible.

Proposed amendment: "Ecology proposes to incorporate the Vessel Sewage No Discharge Zone (NDZ) for Puget Sound into the MOU to reflect the Washington state NDZ regulation. Chapter 173-228 Washington Administrative Code (WAC) adopted on April 9, 2018, and effective May 10, 2018. As written, the MOU allows for treated sewage (blackwater) discharges after advanced wastewater treatment that are now not allowed by the NDZ regulation. To be consistent with the regulation and to prevent vessel sewage discharges in MOU waters, allowances of sewage discharges in MOU waters should be prohibited. This would not affect graywater discharge in the MOU."

CLIA Comments: The current MOU, which predates the Washington State NDZ regulation, memorializes the industry's agreement to not discharge untreated wastewater, including both untreated sewage and untreated graywater, into MOU waters from cruise ships. The MOU only allows such wastewater discharges upon application to and approval by DOE and only when

treated by advanced wastewater treatment systems which can provide an equivalent or higher level of treatment than many shoreside wastewater treatment plants. Further, the MOU waters are subject to the *Washington state NDZ regulation. Chapter 173-228 Washington Administrative Code (WAC)*. Such zones are subject to establishment pursuant to Federal law under the Clean Water Act as administered by the U.S. EPA. By law, CLIA Members are already prohibited from discharging treated sewage by their advanced wastewater treatment systems. CLIA Members are to comply with the more stringent legal requirement in addition to commitments made under the Washington State MOU and CLIA's Waste Management Policy.

The criteria for an amendment of the Washington State MOU includes that it shall not duplicate or replace an existing regulation, except that the MOU can be more restrictive. The outcome the Department of Ecology is seeking with this proposed amendment has already been addressed through legal requirements and the MOU. The proposed amendment does not meet the criteria for inclusion and, if adopted, would be duplicative with existing regulation.

Thank you for the opportunity to comment on the proposed amendments to the MOU. CLIA is available to discuss these comments with you should you have any follow up questions. The CLIA point of contact is Maureen Hayes, Technical Advisor, Maritime Policy. Phone: (202)705-8464. Email: mhayes@cruising.org.

Sincerely,



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