



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
AIR, WASTE AND TOXICS

March 4, 2011

Jeff Johnston  
Air Quality Program  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

Re: Project to Increase 777 Airplane Production at Boeing Everett

Dear Mr. Johnston:

This letter addresses the proposed expansion at The Boeing Company's Everett facility to increase production of the 777 airplane from 5.5 to 8.3 airplanes per month. My staff has reviewed your letter of February 17, 2011 to The Boeing Company concerning this project. Details of our review are contained in the remainder of this letter.

**Availability of the "Legal Causation" Approach to Debottlenecking**

EPA agrees with Ecology's conclusion that the "Legal Causation" approach as previously proposed by EPA is not available under the PSD program. EPA's proposed rule sought comment on various approaches and associated rule changes on how emission increases are calculated for debottlenecking changes including the use of the "Legal Causation" approach. However, as EPA stated in the notice in the Federal Register, none of the proposed debottlenecking approaches were available for implementation because "This proposal ... should not be used or cited in any litigation as a final position of the Agency." After reviewing the comments submitted, EPA decided to withdraw the proposed rule for changing the approach to debottlenecking. Accordingly, EPA's proposal and withdrawal notices in the Federal Register did not provide for the implementation or finalization of the proposed Legal Causation approach and associated changes to the PSD rules. Therefore, Ecology is correct in concluding that the Legal Causation approach is not available for consideration as part of any PSD applicability determination.

**Begin Actual Construction**

EPA also agrees with Ecology's conclusion that the implementation of changes to the Southwest Booth would constitute "begin actual construction" with respect to Boeing's overall 777 expansion project. The proposed changes to the Southwest Booth are clearly part of the 777 expansion project. EPA has previously interpreted that these types of changes to emission units to fit within the meaning of "begin actual construction" as that term is used and defined in 40

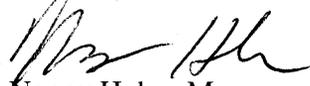
CFR 52.21(a)(2)(iii) and (b)(11), respectively. Therefore, Ecology is correct in concluding that the Southwest Booth emission unit change is related to Northern Booth emission unit changes and would be prohibited prior to obtaining a PSD permit if the emissions associated with the Boeing project is determined to be a major modification.

### **Boeing's Project Aggregation Analysis**

My staff also reviewed the aggregation analysis contained in Boeing's letter of February 23, 2011 to Ecology. This analysis is not consistent with EPA's current aggregation requirements. For example, Boeing's analysis incorrectly applies the "substantially related" test promulgated as part of the aggregation amendment on January 15, 2009. The aggregation amendments including the "substantially related" test have been stayed since February 13, 2009, and were permanently stayed on May 18, 2010. The best summary of EPA's current aggregation policy is provided in a Federal Register notice (75 FR 19567), dated April 15, 2010. In that notice, EPA provided a detailed discussion of its current aggregation policy. As Boeing's aggregation analysis does not accurately reflect EPA's current aggregation position, it cannot be relied on in determining PSD applicability.

Please let me know if you have any questions or would like to discuss these issues further. I can be reached at 206-553-6908 or [helm.nancy@epa.gov](mailto:helm.nancy@epa.gov).

Sincerely,



Nancy Helm, Manager

Federal and Delegated Air Programs Unit