

The Boeing Company

Please see attached comment letter.

March 30, 2021

Laura Watson
Director
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Submitted electronically

RE: Informal Comment Period for Chapter 173-445 WAC, Greenhouse Gas
Assessment for Projects

Dear Ms. Watson,

The Boeing Company (Boeing) appreciates the opportunity to submit comments in response to the request of the Department of Ecology (Ecology) for feedback during the informal comment period on the department's concepts for a new rule, Chapter 173-445 WAC, Greenhouse Gas Assessment for Projects, also known as the GAP Rule. Boeing appreciates the public webinars, meetings, and materials that the department has provided during the rule development phase. At this stage of the process, Boeing has two primary concerns with the draft GAP Rule. First, we are concerned that the mitigation requirements in a final GAP Rule for proposed new projects in Washington could be extremely burdensome and harm Washington's competitiveness—especially for energy-intensive, trade-exposed industries such as the aircraft manufacturing industry. Second, Boeing is concerned that the final GAP Rule might require mitigation of downstream emissions from the operation of aircraft built in Washington. Any such requirement would impermissibly impinge on the U.S. EPA's sole authority to regulate those emissions. We therefore urge Ecology to proceed with utmost caution as it considers and finalizes its GAP Rule. At the same time, we look forward to working with Ecology to reduce greenhouse gas emissions from sources in our state, while protecting Washington's economy and respecting EPA's exclusive role in regulating emissions from aircraft.

Introduction

As a leader in global aerospace, Boeing develops, manufactures, and services commercial airplanes, defense products, and space systems for customers in over 150 countries. As a top U.S. exporter, the company leverages the talents of a global supplier base to advance economic opportunity, sustainability, and positive community impact. Boeing's diverse team is committed to innovating for the future and to exemplifying the company's core values of safety, quality, and integrity. Boeing employs more people in Washington than in any other Boeing location. The company is proud to work with nearly 1,400 suppliers and vendors in Washington to create jobs and economic opportunity. Boeing historically has supported nearly 120,000 direct and indirect jobs in the state and approximately \$5 billion in in-state supplier and vendor purchases each year. We are not only an important Washington employer and manufacturer, but we are proud of the many hours our employees volunteer to charitable causes in Washington and the tens of millions of dollars that we and our employees contribute to philanthropic efforts in the state each year.



Boeing recognizes that climate change is a fundamental challenge of our time—and we are committed to reducing GHG emissions from both our facilities and our products. Every new Boeing airplane program reduces fuel use and emissions 15 to 25 percent compared to the airplane program it replaces. Boeing and the aviation industry are making substantial progress in meeting our commitments to reduce emissions from global aviation, but there's more work to do as more people fly. Boeing and the industry are reducing emissions in four key ways: through improvements in technology, operations and infrastructure, through development and use of sustainable aviation fuels, and through carbon offsets.

Since 2007, Boeing has reduced GHG emissions from its facilities by 29 percent. Our Renton factory is powered by 100 percent renewable electricity, and our Everett factory by 97 percent renewable electricity. The company has set an absolute greenhouse gas (GHG) emission reduction goal of 25% by 2025. In addition, we achieved net-zero GHG emissions from our operations in 2020 through increased use of renewable energy, conservation, and responsible carbon offsets. In fact, Boeing has been recognized by the EPA as an Energy Star Partner of the Year for each of the last 10 years.

So why, given its demonstrated commitment to reducing its GHG emissions, is Boeing concerned about Ecology's proposed GAP Rule? The core substantive component of the GAP Rule, if finalized in its current form, would require proposed projects for the construction of a new industrial facility or to modify an existing facility in Washington to mitigate (e.g., offset) the GHG emissions expected both from the new operation *and from its upstream and downstream emissions*. Boeing is concerned that this mitigation requirement would be exceptionally burdensome, particularly for manufacturers of finished products such as aircraft, but also for automobiles, marine vessels, and a host of other products produced in Washington that run on fossil fuels. Moreover, such a mitigation requirement could cause "leakage" of projects and their corresponding energy use to areas that depend on more carbon-intensive energy sources, or it could encourage the sale of competing products that are made in such areas, thereby actually *increasing* global GHG emissions (contrary to the very goal of the proposed GAP Rule) and significantly harming Washington's economy in the process. This concern is especially pertinent to energy-intensive, trade-exposed industries including aircraft manufacturing. For Boeing, that concern would be greatly magnified by any expansive view of the "downstream" emissions that will be attributed to a project to construct or modify an aircraft manufacturing facility.

Boeing is also concerned by some of the language in the proposed GAP Rule and the accompanying documents because it suggests that Ecology may be considering a regulation that would be preempted by the federal Clean Air Act or under the Supremacy Clause of the U.S. Constitution. As we expect Ecology is aware, the regulation of GHG emissions (and all other emissions, for that matter) from aircraft is within the sole authority of EPA under section 231 of the CAA. Thus, with respect to including downstream emissions in the proposed GAP Rule's mitigation requirement, Boeing submits that Ecology should not, and legally may not, adopt any GAP Rule, including WAC 173-445, that might apply to proposed new or modified facilities for the manufacture of aircraft or any parts or components thereof (including aircraft engines) to reduce, offset, mitigate, or otherwise compensate for the GHG emissions associated with the *operation* of aircraft after they are certified by the Federal Aviation Administration (FAA). First, as we discuss in more detail below, any final rule that attempts to enforce any state standard respecting emissions of GHGs from any aircraft in such circumstances would be preempted by the express terms of the federal Clean Air Act (CAA) and therefore subject to judicial vacatur, unless that rule is *identical* to EPA's recently promulgated rule establishing federal standards for GHG emissions from aircraft. That federal standard implements

international GHG standards for aircraft agreed to by the International Civil Aviation Organization.¹ Second, any such final GAP Rule would also be impliedly preempted by the Supremacy Clause of the U.S. Constitution, as it would stand as an obstacle to Congress's clearly-expressed choice that EPA, and only EPA, set the scope of required GHG emission reductions for aircraft manufactured or operated in the United States.

A Critical Unanswered Question: Accounting for Downstream Emissions of Finished Products

Any proposal to compel mitigation of GHG emissions from projects in Washington pursuant to the State Environmental Policy Act (SEPA) is troubling for two reasons. First, Ecology already has specific authority to regulate GHGs as pollutants under the Washington Clean Air Act, thus raising questions about its invocation of the general mitigation requirements of SEPA. Second, and more importantly from a practical standpoint, such a rule would significantly disadvantage Washington's energy-intensive, trade-exposed industries, including but by no means limited to aircraft manufacturing, thereby increasing the risk of leakage of jobs and emissions to other jurisdictions that would likely be reliant on more carbon-intensive energy sources than Washington, *resulting in increased global greenhouse gas emissions despite the GAP Rule's contrary intentions.*² Other U.S. locations that might compete for proposed Washington-based "projects" or Washington-based sales have significantly dirtier energy sources; many competing foreign locations will be even worse.³ Ecology should take care to maintain the state's competitive position and capitalize on the long history of clean energy in Washington, as global GHG emissions are likely to be reduced when projects locate in, and sales flourish in, Washington.

Boeing's concerns in this regard arise primarily because of the potential that the final GAP Rule could require mitigation, as part of the SEPA project review process, of downstream emissions of completed products to be produced at a proposed new or modified Boeing facility. Ecology can allay most of these concerns by clarifying that this is *not* its intent for the final GAP Rule. While the Draft Rule Conceptual Framework appears to limit consideration of downstream emissions attributable to a project to those associated with the "first potential use" of a product

¹ See Control of Air Pollution from Airplanes and Airplane Engines: GHG Emission Standards and Test Procedures - Final Rulemaking, 86 Fed. Reg. 2136 (Jan. 11, 2021).

² Boeing understands that the GAP Rule is to include, as part of the assessment process, an energy analysis. See Draft GAP Rule Conceptual Framework at 23-25. This energy analysis is intended to assess the "potential magnitude of a shift in energy use on a larger scale" and include an assessment of "geographic carbon leakage" as including "GHG emissions based on the energy outputs of the project." *Id.* While the discussion in the Framework document is centered on energy production, Ecology has also considered "Market and Geographic Leakage Effects" as part of its webinar series, noting that "many of the projects covered by the GAP Rule would produce or move products that compete in the global marketplace" and suggesting that an energy analysis could also be used for assessing whether "the project [is] likely to result in moving greenhouse gas emissions out of state[.]" Greenhouse Gas Assessment for Projects (GAP) Rulemaking, November 17, 2020, Webinar at 26-27. While Ecology's review of "leakage" has to date been largely conceptual, the potential that the GAP Rule could result in a competitive disadvantage to Washington and an increase in global carbon emissions is a very real risk that Boeing urges Ecology to closely consider before deciding how to proceed with its proposal. *Boeing suggests that exempting energy-intensive, trade-exposed industries from the mitigation requirement is the only way to prevent the GAP rule from causing leakage.*

³ With respect to aircraft, an expansive view of GHGs attributable to a Boeing "project" and subject to mitigation could end up disadvantaging Boeing in the international marketplace, increasing the sale of competing products manufactured in areas with more carbon intense energy sources. Indeed, even without Boeing's voluntary purchases of renewable electricity, the EPA eGRID factor for the Northwest is significantly lower than regions where other large aircraft manufacturers have final assembly lines. The eGRID factor for Mobile, Alabama is 1.6 times higher, and the Shanghai footprint is estimated to be approximately 4.1 times higher, than the eGRID factor for Puget Sound (Shanghai data based on Li et al., 2017, *Energy Procedia*).

produced by the project, this “first use” concept is not defined in the draft regulatory language and is not discussed in the Framework document in the context of a completed “product” such as an airplane, motor vehicle, marine vessel, boiler, gas turbine, or home appliance.

The Draft Rule Conceptual Framework thus leaves a fundamental question unanswered: If Boeing sells an aircraft to an airline customer, and that airline customer then uses the aircraft for its entire useful life, are all of the GHG emissions from that aircraft over its useful life “first use” emissions attributable to the Boeing project to construct or modify the factory at which that aircraft will be made? Ecology’s example of an aircraft part manufactured at a covered “project”⁴ provides one possible answer—that GHG emissions associated with the operation of the aircraft would *not* be attributable to Boeing’s new or modified facility. But if this example instead indicates that manufacturers of completed products such as a finished aircraft must be assessed for their product’s downstream emissions, then under the “first use” cutoff example Ecology provides, the cutoff point for consideration of emissions associated with that aircraft might be, for instance, the first time the aircraft systems are turned on during testing at the Boeing facility, as that could be considered to be the first use of that aircraft. Again, though, neither the Draft GAP Rule and nor the Framework document speaks in any detail to the cutoff point for downstream emissions associated with the “first use” of a finished product.

Boeing therefore requests that Ecology clarify its intent regarding the meaning of the term “first use” in the context of finished products such as aircraft, so that Boeing can participate meaningfully in the rule development process on this critical issue. Boeing also asks Ecology to reconsider whether it makes sense for *any* downstream (or upstream) emissions associated with a project to be subject to mitigation. In addition to the risk of diverting projects, jobs, and energy use to other jurisdictions (likely with more carbon-intensive energy supplies) as the mitigation obligation balloons, downstream (and upstream) emissions are likely to be the direct emissions of some other facility, entity, or person. As a consequence, the risks of double-counting and of increasingly intractable efforts to allocate emissions among various “projects” subject to the GAP Rule are high. In short, the final GAP Rule could be unmanageable.⁵

Boeing cannot overstate the potential detriment to both Boeing and to the State of Washington if the GAP Rule were to attribute all of a product’s “useful life” GHG emissions to a proposed new or modified facility to produce that product. Attributing the prospective emissions from airlines’ and other end users’ operation of aircraft to be produced at a proposed new or modified aircraft assembly facility to the proposed “project” to construct or modify that facility, and then requiring that Boeing “mitigat[e those] greenhouse gas emissions, as necessary *to achieve a goal of no net increase in greenhouse gas emissions attributable to the project*” (as contemplated by the Draft Conceptual Framework pursuant to the Governor’s Directive), would impose an absurdly high mitigation obligation on Boeing, making Boeing less competitive in the international market.

Ecology has, to date, taken a very expansive view of the boundaries of environmental assessments to determine the scope of GHG emissions that would require mitigation, including, in addition to the emissions from the proposed new facility or modification that is the “project,” both upstream and downstream, and in-state and out-of-state emissions associated with the

⁴ “[F]or a project to build an aircraft component, the first use for the purpose of assessment in this rule would be the installation of the aircraft part. The first use would not include the energy for flying the aircraft.” Draft GAP Rule Conceptual Framework for Informal Review, March 2021 at 20.

⁵ Consider, for example, a new Boeing project that would involve a new airplane final assembly plant, in conjunction with a separate but related project for a new engine supplier plant, several other separate but related projects for part/component suppliers’ plants, and a local airport expansion. How will downstream emissions from the aircraft to be finally assembled at the Boeing plant be allocated among these projects?

project.⁶ Given the highly competitive international marketplace for aircraft in which Boeing competes, an expansive view of greenhouse gas emissions that would be attributable to a Boeing “project” and subject to mitigation would be highly problematic. There is the very real prospect of not only no net gain to the environment, but of meaningful damage to the environment (contrary to the express goals of Ecology in establishing a GAP Rule) as well as to Washington’s economy, if sales end up being diverted to competitors that do not face similarly burdensome mitigation requirements.

A Final GAP Rule Requiring Mitigation of Downstream Emissions from Aircraft Produced at a Washington-based Project Would Be Preempted by the Clean Air Act

Any attempt to impose such mitigation obligations would, in any event, be prohibited under federal law due to an express preemption provision in the federal Clean Air Act. EPA has the congressionally-delegated authority to adopt standards for GHG emissions from aircraft pursuant to CAA section 231 (which authority EPA has recently exercised, see 86 Fed. Reg. 2136 (Jan. 11, 2021)). In granting EPA that authority, Congress expressly prohibited states from regulating aircraft emissions in any way not *identical* to a duly-promulgated EPA standard. Specifically, CAA section 233 provides:

No state or political subdivision thereof may adopt or attempt to enforce *any* standard respecting emissions of *any* pollutant from *any* aircraft or engine thereof unless such standard is *identical* to a standard applicable to such aircraft under this part.” (Emphasis added).

Under this preemption provision, Ecology is prohibited from including *any* prospective downstream product emissions from an aircraft in determining SEPA mitigation obligations for a project to construct or modify an aircraft manufacturing plant in the state.

As stated by EPA, “CAA section 231(a) provides broad authority for EPA to establish emission standards” for aircraft. 73 Fed. Reg. 44,354, 44,433 (July 30, 2008). Because EPA’s authority under Section 231 is broad, so too is the preemption of non-identical state rules mandated by Section 233. And any attempt by Ecology to regulate within the scope of EPA’s broad authority to establish emission standards for aircraft would be prohibited. This preemption would apply to any attempt by Ecology to require mitigation by Boeing or any other aircraft manufacturer of emissions resulting from the operation of the aircraft that it builds.

The State of Washington in fact acknowledged this express preemption in Ecology’s comments on EPA’s aircraft GHG standards, noting that it is *EPA’s* job, not Washington’s, to “ensure GHG reductions over the long-term by incentivizing manufacturers to create cleaner, more efficient options.”⁷ Washington also joined in comments filed by a group of 10 states, in which those states expressly recognized that “the States are preempted under section 233 of the Clean Air Act from establishing distinct standards for aircraft engine emissions, so they must rely on EPA to adopt effective controls to protect their citizens.”⁸ State comments at 25. The comments

⁶ “While the boundaries of the environmental assessment have yet to be determined, it is expected the analysis would cover several types of GHG emissions for a project. • On-site emissions • In-state emissions (on-site, upstream, and downstream) • Upstream out-of-state emissions • Downstream out-of-state emissions.” Greenhouse Gas Assessment for Projects (GAP) Rulemaking, October 13, 2020 Webinar at 13.

⁷ Ecology Comments, Control of Air Pollution from Airplanes and Airplane Engines: GHG Emission Standards and Test Procedures [EPA–HQ–OAR–2018–0276-0140] at 2 (Oct. 15, 2020).

⁸ Comments of California (by and through the California Attorney General and California Air Resources Board), Connecticut, Illinois, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Vermont, Washington, and the District of Columbia, NOTICE OF CONTROL OF AIR POLLUTION FROM AIRPLANES AND AIRPLANE ENGINES: GHG

emphasized the importance of EPA standards, “particularly given the States’ surrender of their sovereign authority to set their own standards for aircraft pollution.” *Id.* at 36.

A Final GAP Rule Requiring Mitigation of Downstream Emissions from Aircraft Produced at a Washington-based Project Would Also Be Barred Under the “Obstacle” Prong of the Implied Preemption Doctrine

CAA sections 231(a) & (b) direct EPA to consider the factors of “noise, safety, cost and necessary lead time for the development and application of requisite technology” in setting standards for emissions from aircraft. 73 Fed. Reg. at 44,433. Because Ecology’s contemplated mitigation requirement, if applied to downstream greenhouse gas emissions of aircraft to be manufactured at a proposed project, would drastically increase the costs of manufacturing those aircraft *as a direct function of those aircraft’s expected in-use greenhouse gas emissions*—the precise emissions regulated by EPA’s CAA section 231 standard—such mitigation requirement would also be impliedly preempted under the Supremacy Clause of the U.S. Constitution.⁹ Because such a mitigation requirement would upset the careful balance struck by EPA among those statutory factors in setting its aircraft GHG emission standard, the state’s GHG mitigation requirement would present an impermissible obstacle to EPA’s regulation of those emissions under 231(a). *See, e.g., Barnett Bank of Marion County v. Nelson*, 517 U.S. 25 (1996) (state law preempted, without regard to preemption clause in statute, where that state law stands as an obstacle to accomplishment of federal purpose).

The case law applying *Barnett Bank* and similar authorities bears this out. For instance, in *Crosby v. National Foreign Trade Council*, 530 U.S. 363 (2000), the Supreme Court concluded that state laws can pose a prohibited obstacle to the accomplishment of federal objectives simply by interfering with Congress’s choice to concentrate decision-making in federal authorities. In that case, the Court held that a federal statute imposing sanctions on Burma (now Myanmar) preempted a Massachusetts statute restricting state agencies’ purchase of goods or services from companies doing business with that country. The Court found that the state law posed an obstacle to the federal objective in multiple ways. First, it interfered with Congress’s decision to provide the President flexibility to add or waive sanctions, by “imposing a different, state system of economic pressure against the Burmese political regime.” *Id.* at 376. Second, the state law penalized individuals and conduct Congress had determined not to sanction, thus interfering with the federal statute’s goal of imposing only limited sanctions on the Burmese government. *Id.* at 377-79. The Court pointedly noted the irrelevance of the fact that the state law “share[d] the same goals” as the federal law, finding that the state-imposed sanctions would still undermine the federal law’s intended “calibration of force.” *Id.* at 380. Third, the Court pointed to the fact that the state law, left in place, would compromise the President’s ability “to speak for the Nation with one voice” in foreign diplomacy. *Id.* at 380-81.

Similarly, in the context of motor vehicle safety regulations, the Supreme Court has held that federal laws and regulations evince an intent to establish both a regulatory “floor” and “ceiling” for certain products and activities, thus preempting more stringent state laws and regulations. *See Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000). In *Geier*, the Court held that the

EMISSION STANDARDS AND TEST PROCEDURES [EPA–HQ–OAR–2018–0276-0176] (Oct. 19, 2020).

⁹ The Supreme Court has held that the presence of an express preemption provision in a statute—such as section 233 of the CAA—does not preclude additional or alternative preemption under the various implied preemption doctrines, such as “field preemption” (where a pervasive scheme of federal regulation implicitly precludes supplementary state regulation) and “conflict preemption” (where compliance with both federal and state regulation is a physical impossibility or where state law poses an obstacle to the full purposes and objectives of Congress). *See Geier v. American Honda Motor Company*, 529 U.S. 861, 881-81 (2000).

National Traffic and Motor Vehicle Safety Act (NTMVSA) and associated regulations impliedly preempted state tort claims alleging that an automobile manufacturer had negligently designed a car without a driver's side airbag. *Id.* at 865. The Court rejected the federal government's argument that the NTMVSA *expressly* preempted the state law claims, but nonetheless found that those claims, if actionable, would interfere with the federal objective of giving manufacturers the choice between a "variety and mix" of passive restraints. *Id.* at 875. Thus, the Court held that the NTMVSA impliedly preempted the state law claims. *Id.*

Here, Ecology's Draft GAP Rule, if applied to require mitigation of GHG emissions of aircraft produced in a new or modified in-state facility, would stand as a clear obstacle to accomplishment of Congress's purpose in CAA sections 231 and 233—that is, ensuring that aircraft emissions are controlled according to standards established by EPA's balancing of the statutorily-specified factors of noise, safety, cost, and necessary lead time for the development and application of requisite fuel-efficiency enhancing technology. Under *Barnett Bank* and its progeny, then, such application of the GAP rule would be preempted not only by the express terms of the CAA section 233, but also under the implied preemption doctrine's "obstacle" prong.

Boeing therefore urges Ecology to proceed with utmost care in developing any GAP Rule/SEPA mitigation requirements that would apply to "projects" to construct or modify a facility to manufacture aircraft, and requests assurances that Ecology will not seek to attribute downstream emissions of such aircraft to such projects.

Ecology Should also Proceed with Utmost Caution in Applying Any Final GAP Mitigation Requirements to Projects to Produce Aircraft Components, As Those Too Would have the Effect of Regulating Aircraft Emissions in a Manner Conflicting with the Clean Air Act

Boeing is also concerned about the GAP Rule's impact on projects to construct or modify facilities to manufacture aircraft parts or components that Boeing may use in the assembly of its aircraft. As previously noted, in its Draft GAP Rule Conceptual Framework, Ecology provides the following example of a type of "project" that would require both assessment of GHG emissions (including downstream emissions from first use of a product produced by the project) and mitigation if the GAP Rule is finalized as contemplated in the Framework document and the Governor's Directive: "for a project to build an aircraft component, the first use for the purpose of assessment in this rule would be the installation of the aircraft part. The first use would not include the energy for flying the aircraft."¹⁰ This example is not entirely clear, but it appears to contemplate that a lifecycle boundary (that is, the last point at which emissions from the product's use would be considered) would exist *at the point where an aircraft part is physically installed onto a larger component or system*. Thus, if installation of the part on an aircraft or on an aircraft engine or on some other component destined for an aircraft, could be attributed to the "project" to build or modify a facility to manufacturer that part, then it appears that there will be an obligation to mitigate upstream emissions, on-site emissions, and downstream emissions coterminous with that first installation of the part. And, as we read the Draft GAP Rule Conceptual Framework, any required downstream emissions assessment would extend no farther than that first installation, nor would it include any actual utilization of the part in an aircraft or engine.¹¹

¹⁰ Draft GAP Rule Conceptual Framework for Informal Review, March 2021 at 20.

¹¹ Indeed, accounting for downstream emissions from an aircraft part raises a host of additional questions regarding how the effect on greenhouse gas emissions of an individual part could be determined separately once integrated into an airplane and whether such effects would be positive or negative.

Nonetheless, for the reasons outlined below, Boeing considers even this limited scope to be legally problematic and thus also urges Ecology to proceed with caution in finalizing any GAP Rule that applies to “projects” to construct or modify a facility to produce aircraft parts or components. Specifically, should Ecology include such projects within the scope of projects to be regulated under the GAP rule and require that the manufacturers of aircraft parts or components mitigate the associated GHG emissions, it would effectively be: (1) increasing the cost of those parts and components to aircraft manufacturers such as Boeing and hence the cost of the “requisite technology” employed by Boeing to meet EPA’s CAA section 231 standards; (2) thereby attempting to regulate aircraft GHG emissions themselves, by forcing reductions in those emissions beyond those already required by EPA’s CAA section 231 rule through increasing the cost of that part or component, an action that, as discussed above, is preempted both by the Clean Air Act and by the Supremacy Clause of the U.S. Constitution; and (3) likely improperly double-counting such installation-associated emissions to the extent those emissions are also attributable to Boeing as part of any “facility” emissions for which it must account in any proposed “project” utilizing those parts and components. This double-counting, and the confusion it is almost certain to create, is by itself a sound reason for Ecology to decline to include downstream emissions in assessing the emissions associated with any “project” subject to any final GAP Rule.

Conclusion

Boeing is committed to reducing GHG emissions associated with the operation of its aircraft and thus strongly supported EPA’s adoption of the first-ever domestic aircraft GHG standards. Those standards were carefully considered by EPA (in consultation with FAA), and were crafted with the availability of technologies, safety, cost and noise firmly in mind (all as required by the statute). Boeing urges Ecology to bear this in mind, with awareness of the federal Clean Air Act’s express preemption of state attempts to regulate aircraft and aircraft engine emissions except in ways *identical to* the federal standards, and the implied preemption arising from the Supremacy Clause of the U.S. Constitution, as it proceeds with its GAP rulemaking.

Boeing offers these comments to ensure alignment of international, federal, and state efforts to address GHG. We thank Ecology for reaching out to stakeholders to provide and gather information and for the opportunity to comment on this matter. Effective environmental management requires across-the-board input from all stakeholders to find the best solutions that will have the greatest benefit. We look forward to working with Ecology to achieve that end.

Sincerely,



Steve Shestag
Senior Director
Global Enterprise Sustainability – Environment Operations