UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

ENFORCEMENT &
COMPLIANCE ASSURANCE
DIVISION

Reply To: 20-C04

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Todd Dahlberg
Senior Environmental Manager
Boeing Everett
P.O. Box 3703, MC OU-29
Seattle, Washington 98124

Re: **NOTICE OF VIOLATION**
Boeing Everett
EPA ID No. WAD041585464

Boeing Everett Modification Center
EPA ID No. WAR000008979

Dear Mr. Dahlberg:

This Notice of Violation (NOV) is to inform Boeing Everett and Boeing Everett Modification Center of violations of the Washington State Hazardous Waste Management Act as authorized by the U.S. Environmental Protection Agency (EPA) pursuant to the Resource Conservation and Recovery Act (RCRA). These violations were identified as a result of inspections performed by EPA on December 9-12, 2019, at the Boeing Everett and Boeing Everett Modification Center facilities located at 3003 West Casino Road in Everett, Washington ("Facility"). The inspections were performed pursuant to EPA's inspection authority under Section 3007 of RCRA, 42 U.S.C. § 6927.

From the observations made during the inspections, the following RCRA violations were identified at the Facilities:

Violation 1: Leaking Pressure Relief Valve

WAC 173-303-200(1)(b)(ii) allows the accumulation of dangerous waste in tanks by a large quantity generator without a permit provided that, among other things, the generator complies with the applicable air emission standards of 40 C.F.R. Part 265, Subparts AA, BB and CC.

40 C.F.R. Part 265 Subpart BB, at § 265.1054(a), requires that except during pressure releases, each tank pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in § 265.1063(c).

At the time of the inspection, in Building 45-01, the inspection team observed a reading of 3,300 ppm with a calibrated TVA 2020 Toxic Vapor analyzer (TVA) on the pressure relief valve which was in gas/vapor service on tank EV-248-1, which contained organic dangerous waste.

The failure to operate the pressure relief valve on tank EV-248-1 with no detectable emissions constituted a violation of WAC 173-303-200(1)(b)(ii) and 40 C.F.R. § 265.1054(a).

Violation 2: Failure to Properly Calibrate a Leak Detection Monitoring Instrument

WAC 173-303-200(1)(b)(ii) allows the accumulation of dangerous waste in tanks by a large quantity generator without a permit provided that, among other things, the generator complies with the applicable air emission standards of 40 C.F.R. Part 265, Subparts AA, BB and CC.

40 C.F.R. Part 265 Subpart BB at 40 CFR § 265.1063(b), requires that leak detection monitoring, as required in 265.1052 through 265.1062, shall comply with Reference Method 21 in 40 CFR part 60 and that the detection instrument used shall meet the performance criteria of Reference Method 21.

Reference Method 21 at Section 7.1.2 requires that, for each organic species that is to be measured during individual source surveys, one must obtain or prepare as a calibration gas a known standard in air at a concentration approximately equal to the applicable leak definition specified in the regulation.

40 C.F.R. Part 265 Subpart BB, at § 265.1054(a) requires that, except during pressure releases, each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in § 265.1063(c).

40 C.F.R. Part 265 Subpart BB, at §§ 265.1052(b)(1) (for pumps in light liquid service), § 265.1057 (for valves in gas/vapor service or in light liquid service and § 265.1058(b) (for pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service and flanges and other connectors), if a leak detection monitoring instrument reading of 10,000 ppm or greater is measured, a leak is detected.

At the time of the inspection, Boeing was therefore required to monitor for leaks based on an instrument reading equal to or greater than both 500 ppm and 10,000 ppm. Mr. Jerry Cook, the Facility's Industrial Hygienist, stated that Boeing's calibration method was to use 100 ppm isobutylene for the iBrid MX6 monitoring instrument used at the Facility.

The failure to utilize as a calibration gas a known standard in air at a concentration approximately equal to the applicable leak definitions of 500 ppm and 10,000 ppm constituted a violation of WAC 173-303-200(1)(b)(ii) and 40 C.F.R. § 265.1063(b).

Violation 3: Failure to Monitor Equipment

WAC 173-303-200(1)(b)(ii) allows the accumulation of dangerous waste in tanks by a large quantity generator without a permit provided that, among other things, the generator complies with the applicable air emission standards of 40 C.F.R. Part 265, Subparts AA, BB and CC.

40 C.F.R. Part 265 Subpart BB, at § 265.1052(a)(1), requires that each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 265.1063(b).

At the time of the inspection, the inspection team determined that the pumps associated with paint gun cleaning processes in Buildings 45-03 and 45-04, which were in light liquid service, were not being monitored monthly to detect leaks by the methods specified in § 265.1063(b).

The failure to monitor the paint gun cleaning pumps in Buildings 45-03 and 45-04 constituted a violation of WAC 173-303-200(1)(b)(ii) and 40 C.F.R. § 265.1052(a)(1).

Violation 4: Failure to Close a Dangerous Waste Container

WAC 173-303-200(b)(1) and 172-303-630(2) allow the accumulation of dangerous waste in containers by a large quantity generator without a permit provided that, among other things, the owner transfers dangerous waste from a container with apparent structural defects to a container that is in good condition or manages the waste in some other way that complies with the requirements of WAC chapter 173-303.

At the time of the inspection, there was an approximately two cubic yard brown container in Building 40-58L outside the panel booths, which contained D005, D006, D007, D008, D010, D018, D035, F002, F003 and F005 dangerous waste, which was open, in that the container had two holes in the side of the container.

The failure to transfer dangerous waste from this container with apparent structural defects to a container that is in good condition or manage the waste in some other way that complies with the requirements of WAC chapter 173-303 constituted a violation of WAC 173-303-200(b)(1) and 172-303-630(2).

Regulatory Interpretation

During the inspection, Facility personnel asked members of the inspection team for a determination of whether the paint gun cleaning benches, associated tanks, piping, pumps and distillation system qualified for the closed-loop recycling with reclamation exemption under 40 C.F.R. § 261.4(a)(8). It is my understanding that the Washington Department of Ecology ("Ecology") addressed this question in a November 17, 1995, letter to Mr. Alan Sugino of Boeing Everett, concluding that the equipment does not meet the requirements for the closed-loop recycling exemption. EPA defers to Ecology in this matter.

Required Action

The above violations may subject Boeing Everett and Boeing Everett Modification Center to enforcement action under Section 3008 of RCRA, 42 U.S.C. § 6928, including the assessment of civil penalties. Within 20 days of receipt of this NOV, EPA requests that you submit a written response and/or photographs that identify actions you have taken or will take to correct the violations.

Please send all material submitted in response to this NOV to Kevin Schanilec, by email, at schanilec.kevin@epa.gov.

EPA Reservation of Rights

Notwithstanding this NOV or your response, EPA reserves the right to take any action pursuant to RCRA or any other applicable legal authority. Your response to this NOV does not constitute compliance with RCRA.

Nothing in this NOV or your response shall affect duties, obligations or responsibilities with respect to Boeing Everett and Boeing Everett Modification Center under local, state or federal law or regulation.

Thank you for your prompt attention to this important matter. If you have questions regarding this NOV, please contact Kevin Schanilec, of my staff, at schanilec.kevin@epa.gov or (206) 553-1061.

Sincerely,

MORGAN JENCIUS

Digitally signed by MORGAN JENCIUS
Date: 2023.01.17 11:13:38 -08'00'

Morgan Jencius, Chief
Air and Land Enforcement Branch

cc: Mr. Tom Perkow
Compliance Unit Supervisor, Washington Department of Ecology NWRO