

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY**

|                          |   |                              |
|--------------------------|---|------------------------------|
| IN THE MATTER OF:        | ) | Docket No. RCRA-10-2024-0166 |
|                          | ) |                              |
|                          | ) |                              |
| Bradken Atlas            | ) |                              |
| 3021 S Wilkeson Street   | ) |                              |
| Tacoma, Washington 98409 | ) | EXPEDITED SETTLEMENT         |
| EPA ID No. WAD009241803  | ) | AGREEMENT AND                |
|                          | ) |                              |
| Respondent               | ) | FINAL ORDER                  |
|                          | ) |                              |
|                          | ) |                              |

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**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
2. By copy of this letter, the EPA is providing the State of Washington with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2), 42 U.S.C. § 6928(a)(2).
3. Bradken Atlas (“Respondent”) is the owner or operator of the facility at 3021 S Wilkeson Street Tacoma, Washington (“Facility”). The EPA alleges that Respondent violated the following requirements of the RCRA and the EPA approved and authorized State of Washington dangerous waste management program.
  - a. Failure to inspect central accumulation areas of dangerous waste weekly

The regulations at WAC 173-303-630(6), incorporated by reference at WAC 173-303-200(1)(b)(i) provides that large quantity generators may accumulate dangerous waste at a facility without a permit or interim status, if, among other things, at least weekly, the large quantity generator inspects the central accumulation area in which the dangerous waste accumulates.

During EPA’s August 17, 2023 inspection, the inspector asked to review weekly inspection logs. The Facility emailed those records four days later. In the off-site records review, the inspector observed the 25 weeks of missed inspections constituting a violation of WAC 173-303-630(6).

b. Failure to label or mark dangerous waste containers

The regulations at WAC 173-303-200(1)(d) require large quantity generators to label or mark containers of dangerous waste with the words “dangerous waste” or “hazardous waste” while they accumulate on site. The regulations also require generators to mark with a label or sign containers of dangerous waste identifying the major risk(s) associated with the waste in the container for employees, emergency response personnel and the public.

During EPA’s August 17, 2023 inspection, the inspector observed five containers of labeled dangerous waste lacking a label or sign identifying the major risk(s) associated with the waste accumulating in the on-site central accumulation area. The inspector also observed two waste aerosol cans in the Storage Area of the Butler Building, and four waste aerosol cans in Cleaning Room 1 all lacking labels reading “dangerous waste” or “hazardous waste.” These instances constitute eleven separate and distinct violations of WAC 173-303-200(1)(d) for failing to label each container of dangerous waste in accordance with the regulation.

c. Failure to close dangerous waste containers

The regulation at WAC 173-303-200(2) provides that a generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste (as defined in WAC 173-303-040) in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite container must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. Further, the regulation stipulates additional requirements, including the regulations at WAC 173-303-630(2), incorporated, require containers to be in good condition, e.g. no structural defects, and WAC 173-303-630(5)(a), which requires always keeping containers of dangerous waste closed except when necessary to add or remove waste.

During EPA’s August 17, 2023 inspection, the inspector observed two distinct satellite accumulation area containers of dangerous waste sitting open without an operator adding or removing waste. First, in the Maintenance and Universal Waste Area, the inspector observed an open 55-gallon container of labeled flammable dangerous waste holding aerosol can residue without an operator adding or removing waste. Second, in Cleaning Room 1, the inspector observed another 55-gallon container labeled as flammable dangerous waste. The second container’s lid had been cut with a hole in the middle and appeared impossible to close. These constitute two distinct violations of WAC 173-303-200(2).

d. Failure to store universal waste lamps in closed and structurally sound containers

The regulations at WAC 173-303-573(9)(c) require small quantity handlers of universal waste lamps manage their waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. WAC 173-303-573(9)(c)(ii) states small quantity handlers must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with

the contents of the lamps. Further, the containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

During EPA's August 17, 2023 inspection, the inspector observed three universal waste lamps sitting loose on a shelf not in a container. The inspector also observed five containers, fiber boxes, holding four-foot-long universal waste lamps (4) and eight-foot-long universal waste lamps (1) sitting open and not in structurally sound condition. These constitute eight distinct violations of the regulations at WAC 173-303-573(9)(c).

e. Failure to label universal waste lamps

The regulations at WAC 173-303-573(10)(c) require small quantity handlers of universal waste lamps label or mark their universal waste lamps (that is, each lamp), or a container in which the lamps are accumulated, with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

During EPA's August 17, 2023 inspection, the inspector observed three universal waste lamps sitting loose on a shelf and five containers, fiber boxes, holding four-foot-long universal waste lamps (4) and eight-foot-long universal waste lamps (1) all sitting without a clear label or marking reading "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)." These constitute eight distinct violations of the regulations at WAC 173-303-573(10)(c).

4. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is **\$20,000**. The attached Penalty Calculation Worksheet is incorporated by reference.
5. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (6) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (7) consents to electronic service of the filed ESA.
6. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of \$20,000 for the RCRA violations identified in this Agreement. Payments under this Agreement may be made by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <https://www.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties

Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

7. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10  
R10\_RHC@epa.gov

Kyle Masters  
U.S. Environmental Protection Agency  
Region 10  
Masters.Kyle@epa.gov

8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement and Final Order and to execute and legally bind Respondent to it.
9. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
10. Each party shall bear its own costs and fees, if any.
11. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.
12. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state or local income tax purposes.
13. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing of the Final Order with the Regional Hearing Clerk for the EPA, Region 10.

IT IS SO AGREED,

**RESPONDENT:**

Name (print): \_\_\_\_\_

Title (print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**EPA REGION 10:**

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Edward J. Kowalski, Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 10

Date: \_\_\_\_\_

**FINAL ORDER**

I hereby ratify the Expedited Settlement Agreement and incorporate it by reference. This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall be effective immediately upon filing with the Regional Hearing Clerk for the EPA, Region 10. Such filing will conclude this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED,

\_\_\_\_\_  
Richard Mednick, Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 10

Date: \_\_\_\_\_

Certificate of Service

The undersigned certifies that the original of the attached EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Bradken Atlas, Docket No.: RCRA-10-2024-0166, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered via electronic mail to:

Kyle Masters  
U.S. Environmental Protection Agency  
Region 10  
Masters.Kyle@epa.gov

Dale Spencer  
Braken Atlas  
3021 S Wilkeson Street  
Tacoma, Washington 98409

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Salee Porter  
Regional Hearing Clerk  
EPA Region 10