

**FILED**

**Jul 24, 2025**

**6:10 am**

**U.S. EPA REGION 4  
HEARING CLERK**

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

<b>IN THE MATTER OF:</b>	)	Docket No.
	)	<b>RCRA-04-2025-4100(b)</b>
Costco Wholesale Corporation	)	
999 Lake Drive Issaquah, WA 98207	)	
Site No. 353	)	<b>EXPEDITED SETTLEMENT</b>
Site No. 386	)	<b>AGREEMENT AND</b>
Site No. 630	)	<b>FINAL ORDER</b>
	)	
Respondent	)	
_____	)	

**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency (EPA) is authorized to enter into this Expedited Settlement Agreement (Agreement) pursuant to Section 9006 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6991e, and Sections 22.13(b) and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. Costco Wholesale Corporation (Respondent) is the owner or operator of three underground storage tanks (USTs) located at Costco Site No. 353, 3775 Hacks Cross Road, Memphis, TN 38125; Costco Site No. 386, 98 Seaboard Lane, Brentwood, TN 37027; and Costco Site No. 630, 6670 Charlotte Pike, Nashville, TN 37209 (collectively, the UST Facilities). The UST Facilities are "hazardous substance UST systems," as defined under 40 C.F.R. § 280.12, because the Respondent uses them to store a fuel additive that is a hazardous substance as defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601(14).
3. The EPA is responsible for enforcing the requirements of RCRA Subtitle I for hazardous substance UST systems in the state of Tennessee (State) pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, because the State is only authorized by the EPA to carry out a program under Subtitle I of RCRA for petroleum UST systems, not hazardous substance UST systems. See 63 Fed. Reg. 63793 (Nov. 17, 1998).

4. The EPA inspected the Respondent's UST Facilities on April 23 and 24, 2024. Based on the inspections, the EPA alleges that the Respondent failed to comply with the following requirements of Subtitle I of RCRA, 42 U.S.C. §§ 6991 *et seq.*, and its implementing regulations at 40 C.F.R. Part 280:
  - a) Pursuant to 40 C.F.R. § 280.40(a)(2), owners and operators of UST systems must provide a method, or combination of methods, of release detection that is installed and calibrated in accordance with the manufacturer's instructions. On April 23 and 24, 2024, EPA inspectors observed that the liquid monitoring sensors in containment sumps for the submersible turbine pumps (STPs) associated with the UST Facilities were positioned higher than the lowest portion of the STP sumps and, therefore, were not installed in accordance with the manufacturer's instructions specifying installation of the sensors at the base of the sumps. The EPA inspectors also observed that there was an inch or more of the fuel additive product standing in each STP sump for the UST Facilities, and the liquid monitoring sensors located in the upper portions of the sumps were not alarming to the presence of the additive in the bottom of the sumps. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 280.40(a)(2) at each of the UST Facilities by failing to install the liquid monitoring sensors in accordance with the manufacturer's instructions.
  - b) Pursuant to 40 C.F.R. § 280.33(a), owners and operators must repair UST systems to prevent releases and must ensure that repairs to UST systems are properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. On April 23 and 24, 2024, EPA inspectors observed that the mechanical line leak detectors (MLLDs) in the STP sumps at the UST Facilities were leaking the fuel additive product into each STP sump and had not been repaired. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 280.33(a) at each of the UST Facilities by failing to repair, in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory, the UST system components that had caused releases.
5. Following the EPA's inspections of the UST Facilities, the Respondent notified the EPA that the Respondent: (a) removed the additive product from each STP sump, as well as steam-cleaned and pressure washed each such sump, at the UST Facilities; (b) replaced and resealed the MLLDs that had leaked fuel additive into the STP sumps at the UST Facilities; and (c) installed a position-sensitive liquid monitoring sensor, which will alarm

if not positioned correctly, at the lowest point within each STP sump at the UST Facilities in accordance with manufacturer and industry standards.

6. The EPA and the Respondent agree that settlement of this matter for a penalty of **FOUR THOUSAND FIVE HUNDRED AND THIRTY-NINE DOLLARS [\$4,539.00]** is in the public interest.
7. In signing this Agreement, the Respondent: (a) admits that the Respondent is subject to requirements listed above in Paragraph 4; (b) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of a civil penalty as stated below; (e) waives any right to contest the allegations set forth herein; (f) waives the right to appeal the Final Order accompanying this Agreement pursuant to Section 9006 of RCRA and 40 C.F.R. Part 22; and (g) consents to the electronic service of the Agreement and Final Order to the individuals named in the Certificate of Service contained herein.
8. By signing this Agreement, the Respondent waives any rights or defenses that the Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying this Agreement.
9. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the alleged violations have been corrected and that the Respondent has submitted true and accurate documentation of such correction. In accordance with 40 C.F.R. § 22.18(c), the Respondent's full payment of the penalty in Paragraph 6 shall only resolve the Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Paragraph 4, above. Full payment of this penalty shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
10. The undersigned representative of the 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 the Respondent to it. Payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
11. The EPA reserves all of its rights to take an enforcement action for any other past, present, or future violations by the Respondent of RCRA, any other federal statute or

regulation, or this Agreement.

12. Each party shall bear its own attorney's fees, costs and disbursements incurred in this proceeding.
13. This Agreement is binding on the Parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective on the date of filing (the Effective Date).

#### **FINAL ORDER**

Pursuant to the authority of Section 9006 of RCRA, 42 U.S.C. § 6991e, and according to the terms of this Agreement and Final Order, IT IS HEREBY ORDERED THAT:

14. Within thirty (30) calendar days of the Effective Date of this Agreement, the Respondent must pay the civil penalty of **FOUR THOUSAND FIVE HUNDRED AND THIRTY-NINE DOLLARS (\$4,539.00)** using any method provided on the following website: <https://www.epa.gov/financial/makepayment>. For additional instructions, see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Such payment shall identify the Respondent by name and reference Docket No. **RCRA-04-2025-4100(b)**.
15. Within twenty-four (24) hours of payment of the civil penalty, the Respondent shall email proof of payment (e.g., a copy of the check or a statement of affirmation regarding electronic funds transfer), including the Respondent's name, complete address, and docket number to each of the following:

U.S. Environmental Protection Agency  
Region 4 Hearing Clerk  
R4\_Regional\_Hearing\_Clerk@epa.gov

and

Daniel Stout, Life Scientist  
U.S. Environmental Protection Agency, Region 4  
Stout.Daniel@epa.gov

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
CINWD\_AcctsReceivable@epa.gov



16. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the Effective Date of this Agreement and Final Order, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within ninety (90) calendar days of the due date.
17. No portion of the civil penalty or interest paid by the Respondent pursuant to the requirements of this Agreement shall be claimed by the Respondent as a deduction for federal income taxes.

IT IS SO AGREED,

WIGHT LARSEN

Name

ASSISTANT VICE PRESIDENT

Title

[Signature]

Signature

Date: 6-16-25

APPROVED BY EPA:

\_\_\_\_\_  
Patrick Stone  
Director  
Land, Chemicals and Redevelopment Division

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

IT IS SO ORDERED

\_\_\_\_\_  
Regional Judicial Officer Region 4

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

### CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement and Final Order, in the Matter of Costco Wholesale Corporation, Docket No. **RCRA-04-2025-4100(b)**, were filed and copies of the same were emailed to the Parties as indicated below.

**Via email to all Parties at the following email addresses:**

To Respondent:      Kerry Shea  
                                Davis Wright Tremaine LLP  
                                KerryShea@dwt.com  
                                (415) 276-6598

                                Desmond Eppel  
                                Corporate Counsel  
                                Costco Wholesale Corporation  
                                deppel@costco.com  
                                (425) 416-1804

To EPA:                 Daniel Stout  
                                Life Scientist, EPA Region 4  
                                Stout.Daniel@epa.gov  
                                (404) 562-8142

                                Casey F. Bradford  
                                Attorney-Advisor, EPA Region 4  
                                Bradford.Casey@epa.gov  
                                (404) 562-9602

---

Shannon L. Richardson,  
Regional Hearing Clerk  
R4\_Regional\_Hearing\_Clerk@epa.gov