

**RESPONSE TO COMMENTS
FOR
CONOCOPHILLIPS COMPANY
SAN FRANCISCO REFINERY
1380 SAN PABLO AVENUE
RODEO, CALIFORNIA 94572
EPA ID NUMBER CAD009108705**

**SECTION I. COMMENTS AND RESPONSE TO COMMENTS RECEIVED
BY E-MAIL**

Comment 1 by Lindsay Whalin of California Regional Water Quality Control Board dated September 8, 2011:

I reviewed the permit and found a minor error. The RWQCB regulatory history is rather confusing, but I think the Site Cleanup Requirements (rather than the Waste Discharge Requirements) should be cited in the Part VI. CORRECTIVE ACTION section of the permit. The WDR regulates the landfills and surface impoundments. The SCR regulates cleanup. Generally, corrective action required of the WDR is addressed in the SCR at this site.

Response to Comment 1:

The Department of Toxic Substances Control (DTSC) concurs with your comment and has made the following changes:

Page 16, second paragraph, DTSC removed:

“Beginning in 1989, the RWQCB also issued a series of Waste Discharge Requirements that required investigation and remediation at several identified SWMUs and/or Areas of Concern (AOCs.) The most recent of these Waste Discharge Requirements is California Regional Water Quality Control Board San Francisco Bay Region Order No. R2 2005-0026 Updated Waste Discharge Requirements and Rescission of Order No. 97-027 For: ConocoPhillips Company San Francisco Refinery 1380 San Pablo Ave., Rodeo, CA Contra Costa County (Order,) which was issued in July 2005”

And replaced it with your suggested wording:

“The RWQCB has issued a series of Waste Discharge Requirements requiring monitoring for leaks or spills from the refinery’s surface impoundments and landfills. The most recent of these Waste Discharge Requirements is Order No. R2-2005-0026. As part of corrective action pursuant the Waste Discharge Requirements, the RWQCB

adopted Site Cleanup Requirements (Order No. R2-2006-0065) that required investigation and remediation at several areas of concern, as well as maintenance of a perimeter free product containment and removal system along the San Pablo Bay Shoreline.”

SECTION II. COMMENTS AND RESPONSE TO COMMENTS RECEIVED FROM CONOCOPHILLIPS BY E-MAIL AND MAIL DATED OCTOBER 14, 2011

Comment 1:

Page 7 of 22: Item 2 (h) – insert the word “applicable” ahead of conditions in two instances.

Comment 2:

Page 8 of 22: Item 2 (h) - insert the word “applicable” ahead of requirements.

Justification for Comments 1 & 2 - The referenced WDR Order No.:R2-2005-0026 (Order) addresses units other than the Primary Basin and imposes monitoring conditions that are unrelated to the Primary Basin and facility-wide corrective action. For instance, Provision 5 addresses a Soil Management Plan that related to the reuse of site-derived petroleum impacted soils. Provision 8 relates to Stormwater Control Plans. As currently written DTSC requires compliance with these and other unrelated WDR provisions. We recommend insertion of the word “applicable” in several instances to indicate that DTSC has the authority to stipulate compliance with requirements that relate to the Primary Basin and facility-wide corrective action, but not other unrelated requirements contained in the WDR.

This approach in the use of word “applicable” is not unprecedented. In the California Health & Safety Code Section 25187(b)(4), in addressing orders to take corrective actions, “...the order shall incorporate, as a condition of the Order, any applicable waste discharge requirements issues by the State Water Resources Control Board...” Alternatively, DTSC could specify the items contained in the WDR to be complied with to further the specific purposes of the RCRA Post Closure Permit.

Response to Comments 1 and 2:

DTSC’s mission is to protect public health and the environment. This mission is achieved by permitting facilities that manage hazardous wastes, such as ConocoPhillips Rodeo, in a uniform manner throughout the state. DTSC uses standardized permit language in order to maintain consistency. The word “applicable” is redundant and the requested change would alter the standardized permit language unnecessarily and may

cause ambiguity. Further, Health and Safety Code section 25200(a) grants DTSC the authority to impose permit conditions consistent with the intent and authority of Health and Safety Code, Division 20, Chapter 6.5, and therefore not overreaching. DTSC finds General Conditions 2(h) and 4(h) to be consistent with Chapter 6.5's authority therefore not overreaching.

Comment 3:

Page 14 of 22: Item (g) – It will be impossible to visually inspect the basal structure of the Primary Basin once liner has been installed. We request that the clause “of the liner” be added to the end of the first sentence.

Justification for Comment 3 - Since the whole basin area will be covered by the synthetic liner, typically only the liner itself can be inspected for evidence of cracks and gaps.

Response to Comment 3:

DTSC understands the Facility's position that it may be difficult to inspect the basal structure of the Primary Basin once liner has been installed. However, it is possible to find evidence of sizable cracks, spalling and gaps in the basal structure during the visual inspection of the liner. Therefore, it is appropriate to require that the Permittee repair both the liner and basal structure of the Primary Basin upon detection of defects. DTSC has made a minor change in the wording of this permit condition in order to clarify it further. The changes are shown in bold font.

“(g) The Permittee shall maintain the Primary Basin so that it is free of cracks, spalling, and gaps upon visual inspection **of the liner**. The Permittee shall immediately repair all cracks, spalling and gaps upon detection in the **liner and/or the basal structure of the Primary Basin**.”

Comment 4:

Page 14 of 22: Item (h) – include the term recycle as oil bearing materials may be recycled.

Justification for Comment 4 - Sludges deposited in the Primary Basin may be considered by the Refinery to be “Excluded Recyclable Materials” that are eligible for onsite insertion into a Refinery Process Unit. When managed in this way the sludges would not be sent offsite for disposal. Inclusion of the word “recycle” would preserve this option; as currently written “treat” or “dispose” are the sole available options.

Response to Comment 4:

It is the Permittee's responsibility to analyze and manage the sludge deposited in the Primary Basin in accordance with all local, state and federal laws and regulations. DTSC has made the proposed changes in the permit condition (h) as recommended. The change is shown in bold font.

“(h) The Permittee shall immediately pump, properly treat, **recycle**, or properly dispose of waste water and sludge from the Primary Basin after each use.”

Comment 5:

Page 15 of 22: Item 3 – strike through item - overreaching requirement is not necessary.

Justification for Comment 5 - The Post Closure Permit addresses conditions relating to the Primary Basin not the Unit 100 wastewater treatment system. We believe that it is not appropriate for DTSC to impose conditions on the wastewater treatment system or elements. The RCRA permit addresses closure and post closure care for the Primary Basin. Conditions relating to the compliance of the whole wastewater treatment system are unrelated to the specific goals for the RCRA permit. Therefore, we request that Special Condition 3 be struck.

Response to Comment 5:

A key component of the RCRA-equivalent Post Closure Permit is compliance with all local, state and federal laws and regulations. The Unit 100 wastewater treatment system discharges to the Primary Basin in case of an emergency as specified in Unit Specific Special Condition (d). Therefore, it is essential that the operation of the Unit 100 wastewater treatment system complies with all local, state and federal laws and regulations. No change has been made to the permit condition.

Comment 6:

Page 15 of 22: Item 4 – need to link timing of Land Use Covenant with completion of Closure and Closure Certification covered in item (a) on Page 13 of 22.

Justification for Comment 6 - We suggest that the stipulation that the land use covenant be recorded “within 12 months of the date of the permit” be changed to “within 60 days of the submittal of the closure certification”. This will track better with the timing of Unit-Specific Special Condition (a).

Response to Comment 6:

Pursuant to California Code of Regulations, title 22, section 67391.1, the land use covenant must be put in place shortly after the post closure permit takes effect. Therefore no change will be made.