

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

RESPONSE TO WRITTEN COMMENTS

on the Tentative Order for
Valero Refining Company-California
Benicia, Solano County

The Regional Water Board received written comments from Valero Refining Company-California on a tentative order distributed for public comment.

The comments are summarized below in *italics* (paraphrased for brevity) and followed by a staff response. For the full content and context of the comments, please refer to the comment letter. To request a copy of the comment letter, see the contact information provided in Fact Sheet section VIII.G of the Revised Tentative Order.

Revisions are shown with underline text for additions and strikethrough ~~text~~ for deletions. In addition to the revision shown in response to Comment 2 below, staff changed Fact Sheet sections II.E and IV.D.4.a.ii to reflect that Valero replaced its outfall at Discharge Point 001 in October 2020.

***Comment 1:** Valero requests that we increase the technology-based effluent limits for nine parameters (BOD₅, COD, oil and grease, phenolic compounds, sulfide, TSS, total ammonia, total chromium, and hexavalent chromium) to reflect higher actual refinery throughput. Valero disagrees that anti-backsliding provisions require permanently capping these effluent limits notwithstanding changes in refinery throughput. Valero adds that backsliding is allowed when new information is available, such as that showing higher actual refinery throughput.*

Response: We disagree that increasing the technology-based effluent limitations is appropriate. The decision on whether to backslide for technology-based effluent limits is discretionary. The exceptions for backsliding listed under 40 C.F.R section 122.44(1)(2)(i) state that a permit “may be renewed, reissued, or modified to contain a less stringent effluent limitation” if certain exceptions are met. In this case, backsliding is unnecessary because Valero can readily comply with the existing limits. This does not preclude the Regional Water Board from backsliding in the future, if doing so would be technically warranted and permissible under the Clean Water Act and its regulations.

***Comment 2:** Valero appreciates the flexibility in the tentative order that allows it to ask for a new chronic toxicity test species if red abalone proves unworkable. Valero is concerned about the availability of red abalone because suppliers have been affected by COVID-19 and may be unreliable.*

Response: We acknowledge this comment. Changes to the tentative order are unnecessary.

***Comment 3:** Valero suggests changing footnote 3 of Fact Sheet Table F-2 from “Dioxin-TEQ was not detected below its effluent limitations” to “Dioxin-TEQ values were below (non-detect) its effluent limitations” to clarify compliance.*

Response: We revised footnote 3 of Fact Sheet Table F-2 as follows:

Dioxin-TEQ was not detected in the effluent ~~below its effluent limitation~~.