

DOCKETED

Docket Number:	01-AFC-05C
Project Title:	Valero Cogeneration Project-Compliance
TN #:	262464
Document Title:	CEC Response to Valero's Application for Confidential Designation
Description:	N/A
Filer:	Marianna Brewer
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	3/27/2025 9:27:33 AM
Docketed Date:	3/27/2025



March 27, 2025

Via E-Mail

Valero Benicia Refinery
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**Application for Confidential Designation for 2024 Mass Emissions Report
Docket No. 01-AFC-05C**

Dear Asha Noorullah:

The California Energy Commission (CEC) has received the Valero Benicia Refinery's (applicant) application for confidential designation (TN 262013), docketed February 27, 2025, covering the following documents in the 2024 Annual Mass Emissions Report:

- Section 1: Mass Emissions and Fuel Summary (Heat Input Rate monthly averages).
- Section 6: Fuel Gas Sulfur Content Report.

The application asserts that the information is indicative of firing rates and design capacity of the cogeneration unit, which should be kept confidential indefinitely because the data contains proprietary business trade secrets.

Confidentiality Claims

An application for confidential designation shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), “. . . if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential.”

The California Public Records Act allows for the non-disclosure of trade secrets including, among others, those records exempt from disclosure under the Uniform Trade Secrets Act. (Gov. Code, §§ 7927.705, 7930.005, 7930.205; Civ. Code, § 3426.1; Evid. Code, § 1060.)

Civil Code section 3426.1(d) defines “trade secret” as:

[I]nformation, including a formula, pattern, compilation, program, device, method, technique, or process, that (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or

use; and (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(Civ. Code, § 3426.1(d); see also Gov. Code, §§ 7927.705, 7930.005, 7930.205; Evid. Code, § 1061(a); *Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207.)

California Code of Regulations, title 20, section 2505(a)(1)(D), states that if an applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, the application shall state: (1) the specific nature of the advantage, (2) how the advantage would be lost, (3) the value of the information to the applicant, and (4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

Discussion

The application addresses the four elements in California Code of Regulations, title 20, section 2505(a)(1)(D) by stating:

1. *The specific nature of the advantage* – The information is indicative of firing rates and design capacity of the cogeneration unit, which could be used by competitors or vendors at any point in time to Valero's detriment.
2. *How the advantage would be lost* – Disclosure of this information to the public would result in an unfair competitive disadvantage to the Valero Benicia Refinery.
3. *The value of the information to the applicant* – No specific dollar amount, but the information contains fuel use information that is required as part of the quarterly submittal required by the Bay Area Air Quality Management District (BAAQMD) and is indicative of firing rates and design capacity of the cogeneration unit.
4. *The ease or difficulty with which the information could be legitimately acquired or duplicated by others* – This information cannot be aggregated and is currently kept confidential by the applicant on secured servers and in a secure location at the Valero Benicia Refinery. The applicant states that this information is only shared with the BAAQMD through required quarterly submittals.

The applicant has made a reasonable showing that the information referenced above should be maintained as confidential as proprietary business information or trade secrets. The data is related to the firing rates and design capacity of the cogeneration unit, contains information that is not public, and has the potential for economic advantage.

Executive Director's Determination

For the reasons stated, the applicant's request for confidential designation is granted. It will be kept confidential for a period of five years, consistent with the confidentiality period granted to Valero Benicia Refinery's quarterly fuel reports.

Be advised that persons may petition to inspect or copy records that have been designated as confidential, the executive director may disclose, or release records previously designated as confidential in certain circumstances, and the CEC may hold a

hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, filing, reviewing, and acting upon such petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506 through 2508.

Related subsequent submittals can be deemed confidential, without the need for an application, by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

For more information, please email confidentialityapplication@energy.ca.gov.

Sincerely,

A handwritten signature in grey ink, appearing to be 'Drew Bohan', with a stylized, flowing script.

Drew Bohan
Executive Director