

**DOCKETED**

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<b>Project Title:</b>	Valero Cogeneration Project-Compliance
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November 18, 2020

Mr. Scott Anderson  
Valero Refining Company  
3400 East 2<sup>nd</sup> Street  
Benicia, California 94510  
[scott.anderson@valero.com](mailto:scott.anderson@valero.com)

**Application for Confidential Designation for Quarterly Fuel Gas Sulfur Report, Docket No. 01-AFC-05**

Dear Mr. Anderson:

The California Energy Commission (CEC) is in receipt of Valero Refining Company's (applicant) two Applications for Confidentiality covering specified data contained in the 2020 second and third Quarterly Gas Sulfur Reports under Condition of Certification AQ-36. Specifically, the applicant seeks confidentiality for the following data contained in the reports:

- 1) Hours Firing Natural Gas
- 2) Hours Firing Process Gas
- 3) Maximum Daily Average Fuel Consumption
- 4) Fuel Consumption

The applications note that the information is indicative of firing rates and design capacity of the cogeneration unit, which is trade secret information that could be used by competitors or vendors to Valero's detriment.

The applications state that information contained in the quarterly reports cannot be aggregated in a manner allowing release.

A properly filed Application for Confidentiality 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. (Gov. Code section 6254(k); Evid. Code section 1060.)

California courts have traditionally used the following definition of trade secret:

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal. App. 3d 194, 207, citing the Restatement of Torts, vol. 4, section 757, comment b, p.5.)

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, or its disclosure would otherwise cause loss of a competitive advantage, an application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to an applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The applications address these elements as disclosure of the applicant's cogeneration operational data could be used by competitors and vendors to disadvantage the applicant, including the ability to determine the applicant's process rate. The applicant states that the data is kept on secure servers and has not been publicly disclosed and that the information should be kept confidential for three years, until October 31, 2023.

For these reasons, the request for confidential designation for listed data contained in the two 2020 Quarterly Fuel Gas Sulfur Reports is granted until October 31, 2023.

For future quarterly reports that are substantially similar, the applicant may follow the simplified process set forth in the California Code of Regulations, Title 20, section 2505(a)(4).

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 2506-2508.

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If you have any questions concerning this matter, please contact Jared Babula, senior attorney, at [jared.babula@energy.ca.gov](mailto:jared.babula@energy.ca.gov) or (916) 651-1462.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Bohan", written over a horizontal line.

Drew Bohan  
Executive Director