

DOCKETED	
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July 16, 2025

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**Application for Confidential Designation
Docket No. 13-ATTCP-01**

Dear Steven Winstead:

The California Energy Commission (CEC) has received NEMI's (applicant) application for confidential designation, docketed July 1, 2025 (TN 264542), covering the following:

- 2025 Amendment (Non-Substantive Changes) to Application for Nonresidential Mechanical Acceptance Test Technician Certification Provider

The applicant asserts that the amended document should be made confidential due to the inclusion of proprietary training content, internal compliance mechanisms, and sensitive technician level data. The applicant requests confidentiality for a period of 10 years, as the data includes current organizational procedures, certification program details, and internal member compliance information that could change over time but remain sensitive during its operational lifespan.

The applicant submitted the document as part of its application to become an ATTCP for the 2025 Code Cycle. The document submitted is required under the 2025 Energy Code.

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 submission includes proprietary methods for technician evaluation, audit triggers, and internal oversight frameworks that are unique to the applicant's ATTCP program.
2. *How the advantage would be lost* – Disclosure of this information to the public would enable competing organizations or entities to replicate and undermine the applicant's processes without equivalent investment or oversight accountability.
3. *The value of the information to the applicant* – No specific dollar amount, but the information supports the applicant's credibility as a state-recognized ATTCP and forms the core of the applicant's compliance framework with the CEC.
4. *The ease or difficulty with which the information could be legitimately acquired or duplicated by others* – This information is developed in-house and not publicly available. It cannot be reasonably acquired or duplicated without insider access or reverse-engineering the applicant's certification process.

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 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 ten years.

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

Steven Winstead
July 16, 2025
Page 3

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 black ink, appearing to be 'Drew Bohan', written in a cursive style.

Drew Bohan
Executive Director