

**DOCKETED**

<b>Docket Number:</b>	13-ATTCP-01
<b>Project Title:</b>	Acceptance and Training Certification
<b>TN #:</b>	240090
<b>Document Title:</b>	CEC Response to CSPTC Confidentiality Request of June 9, 2021
<b>Description:</b>	N/A
<b>Filer:</b>	Pam Fredieu
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	10/18/2021 2:55:12 PM
<b>Docketed Date:</b>	10/18/2021



October 15, 2021

**Via Email**

Kate McDermott  
California State Pipe Trades Council  
1121 L Street, Suite 207  
Sacramento, California 95814  
[kate@calpipes.org](mailto:kate@calpipes.org)

**Application for Confidential Designation for Request to Modify Eligibility  
Requirements for the 2019 Title 24 MATT Certification, Docket No. 13-ATTCP-01**

Dear Kate McDermott:

The California Energy Commission (CEC) received your Confidentiality Application (application), filed on June 9, 2021, on behalf of California State Pipe Trades Council (applicant or CSPTC). The application seeks confidential designation for the following document:

CSPTC Request to Modify Eligibility Requirements for the 2019 Title 24  
Mechanical Acceptance Test Technician (MATT) Certification

You requested confidential designation of the documents in its entirety, pursuant to California Code of Regulations, title 20, section 2505, on the grounds that it includes proprietary training and trade information distributed only to United Association (UA) members and signatory contractors.

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 [CEC] to keep the record confidential." The California Public Records Act allows for the non-disclosure of corporate proprietary information including trade secrets. (Gov. Code, §§ 6254(k), 6276.44; see also Evid. Code, § 1060; Civ. Code, § 3426.1.)

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, 207-208, from the Restatement of Torts, vol. 4, § 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 application states that the document includes proprietary training and trade information and was developed at the expense of the Applicant and the Training Programs of UA California Locals. The application also states that the document is provided only to United Association members and their signatory contractors for training and not otherwise distributed or disclosed. The application further states that the information in the document cannot be aggregated. Applicant requests that the document remain confidential for the duration of the Acceptance Test Technician Certification Program. Applicant further notes that the Public Records Act specifically allows for the non-disclosure of test questions, scoring keys and other examination data used to administer various types of examinations. (Gov. Code, § 6254(g).)

However, the document cannot be designated as confidential. The document merely describes various prerequisite courses currently required to obtain MATT certification, and states proposed language modifying the requirements so as to no longer mention those courses. Descriptions of those same courses, as well as verbiage essentially the same as the proposed language, may be found on CSPTC's public website under the Frequently Asked Questions (FAQ) for Title 24. Additionally, the document does not contain any actual acceptance testing related materials. Therefore, the application for confidentiality is denied.

If you have any questions concerning this matter, please contact Raj K. Dixit, attorney, at [raj.dixit@energy.ca.gov](mailto:raj.dixit@energy.ca.gov) or (916) 776-3055.

Sincerely,



Drew Bohan  
Executive Director