

**DOCKETED**

<b>Docket Number:</b>	13-ATTCP-01
<b>Project Title:</b>	Acceptance and Training Certification
<b>TN #:</b>	244291
<b>Document Title:</b>	CEC Response Letter Regarding Refrigeration Service Engineers Society's 6-15-22 Application for Confidentiality
<b>Description:</b>	N/A
<b>Filer:</b>	Patty Paul
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	8/2/2022 8:51:08 AM
<b>Docketed Date:</b>	8/2/2022



August 2, 2022

**Via Email**

Arthur Miller  
Refrigeration Service Engineers Society  
PO BOX 248  
Arlington Heights, Illinois 60006  
[hvacr@artcms.net](mailto:hvacr@artcms.net)

**Application for Confidential Designation Title 24 ATTCP Update Report and Training Documents - Docket No. 13-ATTCP-01**

Dear Arthur Miller:

The California Energy Commission (CEC) has received Refrigeration Service Engineers Society's (RSES or applicant) application for confidential designation, dated June 15, 2022, covering: Title 24 ATTCP Update Report and Training Documents.

Applicant asserts that the documents in their entirety consist of proprietary materials considered a trade secret, as well as test questions. Further, the application states that release of the materials is only made to specified employees of RSES and confidential specialists who have assisted in the development of the training and testing materials. The materials appear to be training and testing materials as represented. The application references Government Code sections 6254(k) and 6254(g) as authority for designating the information not subject to disclosure as a public record.

A properly filed Application for Confidentiality shall be granted under 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 California Energy Commission to keep the record confidential." The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.) The Public Records Act also permits non-disclosure of testing materials.

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, §§ 6254(k), 6276, 6276.44; 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), further 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 addresses each of these four requirements by stating:

*The specific nature of the advantage* – The materials, by remaining confidential, provide a competitive advantage for the applicant.

*How the advantage would be lost* – The advantage would be lost if competitors obtained their proprietary training materials and copied them.

*The value of the information to the applicant* – No dollar value, but the materials are extensive (744 pages) and are stated to be owned, used, and protected by applicant, establishing they have value.

*The ease or difficulty with which the information could be legitimately acquired or duplicated by others* – It is not released to anyone other than trainers and confidential recipients.

Applicant has made a reasonable claim that the document contains test questions and scoring keys, as well as curriculum slides and content that qualify as trade secrets, as defined, and that the Public Records Act authorizes the CEC to keep the record confidential pursuant to California Code of Regulations, title 20, section 2505(a)(3)(A).

### **Executive Director's Determination**

For the reasons stated, the applicant's confidentiality application is granted. The information subject to this confidentiality designation will be kept confidential until the Acceptance Test Technician Certification Program ends.

Be advised that under California Code of Regulations, title 20, section 2506, one may petition to inspect or copy records that the CEC has designated as confidential. A decision on a petition to inspect or copy confidential records is issued by the CEC's chief counsel. Under California Code of Regulations, title 20, section 2507, the executive director may disclose records, or release records previously designated as confidential, in certain circumstances. The procedures for acting on a petition and

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criteria for disclosing or releasing records previously designated as confidential are set forth in the California Code of Regulations, title 20, sections 2506-2508.

You may request confidentiality for similar data in a future annual report without applying by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

If you have any procedural questions concerning this application for confidential designation, please contact Kari Anderson, staff counsel, at [kari.anderson@energy.ca.gov](mailto:kari.anderson@energy.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Bohan', with a long horizontal stroke extending to the right.

Drew Bohan  
Executive Director