

DOCKETED

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CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512

December 21, 2016

Arthur T. Miller
Region 2 Director
Refrigeration Service Engineers Society
1911 Rohlwing Road, Suite A
Rolling Meadows, IL 6008-1397

RE: **Application for Confidential Designation for Refrigeration Service Engineers Society Title 24 ATTCP Training Documents**
Docket No. 13-ATTCP-01

Dear Mr. Miller:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of Refrigeration Service Engineers Society (Applicant). The application seeks confidential designation for Applicant's curriculum and exams for training Acceptance Test Technicians and Acceptance Test Employers (Confidential Records). Please see the attachment for a complete list of the Confidential Records.

The Confidential Records have not been disclosed publicly, but have been disclosed to employees of RSES and a limited number of RSES subject matter experts who assisted in the development of the Acceptance Test Technician Certification Provider application and training materials. The Applicant requests that the information not be publicly disclosed, even if aggregated or masked.

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 [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.)

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, comments 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 addresses these four elements: 1) the Confidential Records are commercial information, which provide a business advantage over parties without access to the information; 2) public disclosure would eliminate Applicant's competitive advantage over competing entities applying to become acceptance test technician certification providers; 3) public disclosure of the Confidential Records would result in financial losses relative to the loss of clientele from the marketplace; and 4) the Confidential Records are not readily available on the marketplace and are disclosed only to certain employees and to a limited number of subject matter experts.

Government Code section 6254(g) exempts from disclosure under the California Public Records Act "[t]est questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination. . . ." In this case, the Confidential Records are acceptance test curriculum materials and test questions which are being supplied to the Energy Commission as part of RSES's application to as an Acceptance Test Technician Certification Provider.

The Application is clear that confidentiality is being sought for trade secret information related to the certification of Acceptance Test Technicians and Employers. Therefore, Applicant has made a reasonable claim that the law allows the California Energy Commission to keep the Confidential Records from public disclosure.

Applicant requests that the information be kept confidential indefinitely to protect the integrity of the certification testing process and to protect Applicant's trade secrets. The trade secret information has value as long as the certification Acceptance Test Technician Certification Provider Program is in place; therefore, it is appropriate to grant confidentiality indefinitely until the end of the certification program.

For the reasons stated above, the request for confidential designation for the Confidential Record is granted. The information will remain confidential indefinitely.

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Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

If you have any questions concerning this matter, please contact Michelle Chester, Staff Counsel, at (916) 651-2935.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. P. Oglesby', with a long horizontal flourish extending to the right.

Robert P. Oglesby
Executive Director

cc: Docket Unit
Joe Loyer, California Energy Commission, Standards Implementation Office,
Senior Mechanical Engineer
Veronica Martinez, California Energy Commission, Standards Implementation
Office, Electrical Engineer
Lea Haro, California Energy Commission, Standards Implementation Office,
Supervisor

Attachment – List of Confidential Records

- 1) NRCA-MCH-02-CAV Acceptance Testing - Post Training Exam - Constant Air Volume Post Exam;
- 2) NRCA-MCH-02-CAV Acceptance Testing - Constant Air Volume Pre Training Exam;
- 3) NRCA-MCH-02-A-CAV Acceptance Testing - Constant Air Volume Syllabus;
- 4) Presentation - NRCA-MCH-02-A Acceptance Testing - Constant Air Volume Technician Training;
- 5) NRCA-MCH-02-VAV Acceptance Testing - Variable Air Volume Post Training Exam;
- 6) NRCA-MCH-02-VAV Acceptance Testing - Variable Air Volume Prequalification Exam;
- 7) NRCA-MCH-02-VAV Outdoor Air Acceptance Verification Testing - Variable Air Volume Syllabus;
- 8) Presentation - NRCA-MCH-02-A Acceptance Testing - Variable Air Volume Technician Training;
- 9) NRCA-MCH-02-A-CAV - Evaluation of Technician's Performance Test for Acceptance Form - Constant Air Volume Examiner;
- 10) NRCA-MCH-02-A-CAV Technician Acceptance Testing Performance Exam - Constant Air Volume Performance;
- 11) NRCA-MCH-02-A-VAV Examiner's Evaluation of Technician's Performance Test for Acceptance Form - Variable Air Volume Examiner;
- 12) NRCA-MCH-02-A-VAV Acceptance Testing Performance Exam -Variable Air Volume Performance;
- 13) NRCA-MCH-03-A Examiner's Evaluation of Technician's Performance Test - Acceptance Testing - Constant Volume AC HP Examiner;
- 14) NRCA-MCH-03-A Acceptance Testing - Post Training Exam - Constant Volume AC HP Post Exam;
- 15) NRCA-MCH-3-A Acceptance Testing Prequalification Exam - Constant Air Volume Pre Exam;
- 16) NRCA-MCH-03-A Acceptance Testing - Constant Volume, Single-zone, Unitary AC Heat Pump Syllabus;
- 17) NRCA-MCH-03-A Acceptance Testing Performance Exam - Constant Air Volume AC HP Performance;
- 18) Presentation NRCA-MCH-03-A Constant Air Volume, Single Zone, Unitary AC HP Technician Training;
- 19) NRCA-MCH-05-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form;
- 20) NRCA-MCH-05-A Acceptance Testing Post Training Exam;
- 21) NRCA-MCH-05-A Acceptance Testing Prequalification Exam;

- 22) NRCA-MCH-05-A Course Syllabus for Air Economizer Controls Acceptance Verification;
- 23) NRCA-MCH-05-A Technician Acceptance Testing Performance Exam;
- 24) Presentation - NRCA-MCH-05-A Air Economizer Acceptance Training;
- 25) NRCA-MCH-06-A Examiners Evaluation of Technician's Performance Test for Acceptance Form;
- 26) NRCA-MCH-06-A Acceptance Testing Post Training Exam;
- 27) NRCA-MCH-06-A Acceptance Testing Prequalification Exam;
- 28) NRCA-MCH-06-A Course Syllabus for Demand Control Ventilation Systems Acceptance Verification;
- 29) NRCA-MCH-06-A Technician Acceptance Testing Performance Exam;
- 30) Presentation - NRCA-MCH-06-A Demand Control Ventilation Acceptance Training;
- 31) NRCA-MCH-07-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - Supply Fan VFC Examiner;
- 32) NRCA-MCH-07-A Acceptance Testing Post Training Supply Fan VFC Post Training Exam;
- 33) NRCA-MCH-07-A Acceptance Testing Prequalification Supply Fan VFC Pre Training Exam;
- 34) NRCA-MCH-07-A Course Syllabus for Supply Fan Variable Flow Controls Acceptance Verification;
- 35) NRCA-MCH-07-A Technician Acceptance Testing Performance Exam - Supply Fan VFC Performance;
- 36) Presentation - NRCA-MCH-07-A Supply Fan Variable Flow Controls Acceptance Training Technician Training;
- 37) NRCA-MCH-08-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - Valve Leakage Examiner;
- 38) NRCA-MCH-08-A Acceptance Testing Post Training Exam - Valve Leakage Post Training Exam;
- 39) NRCA-MCH-08-A Acceptance Testing Prequalification Exam - Valve Leakage Pre Training Exam;
- 40) NRCA-MCH-08-A Course Syllabus for Valve Leakage Acceptance Verification;
- 41) NRCA-MCH-08-A Technician Acceptance Testing Performance Exam - Valve Leakage Performance;
- 42) Presentation NRCA-MCH-08-A Valve Leakage Acceptance Training - Technician Training;
- 43) NRCA-MCH-09-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - Supply Water Reset Examiner;
- 44) NRCA-MCH-09-A Acceptance Testing Post Training Exam - Supply Water Reset;
- 45) NRCA-MCH-09-A Acceptance Testing Prequalification Exam - Supply Water Reset Pre Exam;

- 46) NRCA-MCH-09-A Course Syllabus for Supply Water Temperature Reset Controls Acceptance Verification - Supply Water Reset;
- 47) NRCA-MCH-09-A Technician Acceptance Testing Performance Exam - Supply Water Reset Performance;
- 48) Presentation - NRCA-MCH-09-A Supply Water Temperature Reset Controls Acceptance Training - Technician Training;
- 49) NRCA-MCH-10-A Evaluation of Technician's Performance Test for Acceptance Form - Hydronic VFC Examiner;
- 50) NRCA-MCH-10-A Acceptance Testing Post Training Exam - Hydronic VFC Post Exam;
- 51) NRCA-MCH-10-A Acceptance Training Prequalification Exam - Hydronic VFC Pre Exam;
- 52) NRCA-MCH-10-A Course Syllabus for Hydronic System Variable Flow Control Acceptance Verification - Hydronic VFC;
- 53) NRCA-MCH-10-A Technician Acceptance Testing Performance Exam - Hydronic VFC Performance;
- 54) Presentation - NRCA-MCH-10-A Hydronic System Variable Flow Controls Acceptance Training - Technician Training;
- 55) NRCA-MCH-11-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - ADS Examiner;
- 56) NRCA-MCH-11-A Acceptance Testing Post Training Exam - ADS Post Exam;
- 57) NRCA-MCH-AA-A Acceptance Testing Prequalification Exam - ADS Pre Exam;
- 58) NRCA-MCH-11-A Course Syllabus for Automatic Demand Shed Control Acceptance Verification;
- 59) NRCA-MCH-11-A Technician Acceptance Testing Performance Exam - ADS Performance;
- 60) Presentation NRCA-MCH-11-A Automatic Demand Shed Control Acceptance Training - ADS Technician Training;
- 61) NRCA-MCH-12-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - FDD Examiner;
- 62) NRCA-MCH-12-A Acceptance Testing Post Training Exam - FDD Post Exam;
- 63) NRCA-MCH-12-A Acceptance Testing Prequalification Exam - FDD Pre Exam;
- 64) NRCA-MCH-12-A Course Syllabus for Fault Detection and Diagnostics (FDD) for Packaged Direct Expansion (DX) Units;
- 65) NRCA-MCH-12-A Technician Acceptance Testing Performance Exam - FDD Performance;
- 66) Presentation - NRCA-MCH-12-A Fault Detection & Diagnostics (FDD) for Packaged Direct Expansion (DX) Units Acceptance Training;
- 67) NRCA-MCH-13-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form;
- 68) NRCA-MCH-13-A Acceptance Testing Post Training Exam - AFDD Post Exam;

- 69) NRCA-MCH-13-A Acceptance Testing Prequalification Exam - AFDD Pre Exam;
- 70) NRCA-MCH-13-A Course Syllabus for Automatic Fault Detection Diagnostics (FDD) for Air Handling Units and Zone Terminal Units;
- 71) NRCA-MCH-12-A Acceptance Testing Prequalification Exam - AFDD Performance;
- 72) Presentation - NRCA-MCH-13-A Automatic Fault Detection Diagnostics (FDD) for Air Handling Units and Zone Terminal Units;
- 73) NRCA-MCH-14-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - DES Examiner;
- 74) NRCA-MCH-14-A Acceptance Testing Post Training Exam - DES Post Exam;
- 75) NRCA-MCH-14-A Acceptance Testing Prequalification Exam - DES Pre Exam;
- 76) NRCA-MCH-14-A Course Syllabus for Distributed Energy Storage DX AC System Acceptance Verification;
- 77) NRCA-MCH-14-A Technician Acceptance Testing Performance Exam - DES Performance;
- 78) Presentation - NRCA-MCH-14-A Distributed Energy Storage DX AC System Acceptance Training;
- 79) NRCA-MCH-15-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - TES Examiner;
- 80) NRCA-MCH-15-A Acceptance Testing Post Training Exam - TES Post Exam;
- 81) NRCA-MCH-15-A Acceptance Testing Prequalification Exam - TES Pre Exam;
- 82) NRCA-MCH-15-A Course Syllabus for Thermal Energy Storage (TES) System Acceptance Verification - TES Syllabus;
- 83) NRCA-MCH-15-A Technician Acceptance Testing Performance Exam - TES Performance;
- 84) Presentation - NRCA-MCH-15-A Thermal Energy Storage (TES) System Acceptance Training - TES Technician Training;
- 85) NRCA-MCH-16-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form;
- 86) NRCA-MCH-16-A Acceptance Testing Post Training Exam - Supply Air Reset Post Exam;
- 87) NRCA-MCH-16-A Acceptance Testing Prequalification Exam - Supply Air Reset Pre Exam;
- 88) NRCA-MCH-16-A Course Syllabus for Supply Air Temperature Reset Controls Acceptance Verification;
- 89) NRCA-MCH-16-A Acceptance Testing Performance Exam - Supply Air Reset Performance;
- 90) Presentation NRCA-MCH-16-A Supply Air Temperature Reset Controls Acceptance Training - Supply Air Reset Technician Training;
- 91) NRCA-MCH-17-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - Condenser Water Reset Examiner;

- 92) NRCA-MCH-17-A Acceptance Testing Post Training Exam - Condenser Water Reset Post Exam;
- 93) NRCA-MCH-17-A Acceptance Testing Prequalification Exam - Condenser Water Reset Pre Exam;
- 94) NRCA-MCH-17-A Course Syllabus for Condenser Water Supply Temperature Reset Controls Acceptance Verification;
- 95) NRCA-MCH-17-A Technician Acceptance Testing Performance Exam;
- 96) NRCA-MCH-17-A Condenser Water Supply Temperature Reset Controls Acceptance Training;
- 97) NRCA-MCH-18-A Examiner's Evaluation of Technician's Performance Test for Acceptance Form - EMCS Examiner;
- 98) NRCA-MCH-18-A Acceptance Testing Post Training Exam - EMCS Post Exam;
- 99) NRCA-MCH-18-A Acceptance Testing Prequalification Exam - EMCS Pre Exam;
- 100) NRCA-MCH-18A Course Syllabus for Energy Management Control System Acceptance Verification - EMCS Syllabus;
- 101) NRCA-MCH-18-A Technician Acceptance Testing Performance Exam - EMCS Performance;
- 102) Presentation NRCA-MCH-18-A Energy Management Control System Acceptance Training - EMCS Technician Training;
- 103) Refrigeration Service Engineers Society Application for California Title 24 Mechanical Non-Residential Acceptance Test;
- 104) Acceptance Test Employer (ATE) Exam; and
- 105) Presentation - California Energy Commission Title 24, Part 6 Acceptance Testing Employer Training.

