

DOCKETED

Docket Number:	15-MISC-01
Project Title:	Misc Docket
TN #:	259140
Document Title:	Application for Confidential Designation Task 2 FEM
Description:	Request for Confidential Application of Engineering Design and Finite Element Modeling Pending receipt/approval of US Patents
Filer:	Rene Monzon
Organization:	FirstElement Fuel
Submitter Role:	Applicant
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APPLICATION FOR CONFIDENTIAL DESIGNATION

(Title 20 Cal. Code. Regs., § 2505 et seq.)

CEC-13 (Revised 04/2023)

CALIFORNIA ENERGY COMMISSION

Any person submitting a record to the CEC must specify if it should be designated a confidential record by providing an application for confidential designation. The application, which is not confidential, will be reviewed and acted upon by the executive director in consultation with the chief counsel. The CEC's process for reviewing and designating records as confidential can be found at California Code of Regulations, title 20, section 2505.

Filing Process

Applications for confidentiality, and the confidential documents, must be uploaded directly to the Docket Unit through the e-filing system. Individual documents cannot exceed 30 MB. Applications submitted directly to staff and not to the Docket Unit will not be acted on and the documents may be subject to disclosure. For filings not associated with any specific proceeding, the application and relevant records shall be filed into docket **22-MISC-01**. Links to the e-filing system are provided on most proceeding webpages labeled "**Submit e-filing**".

Alternatively, go directly to the [e-filing log-in page](#):

https://efiling.energy.ca.gov/Login.aspx?perms_1&returnurl=http%3A//efiling.energy.ca.gov/EFiling/EfileSelect/Proceeding.aspx

For additional information on e-filing see: CEC's E-filing and E-commenting System [User's Training Guide](#), https://www.energy.ca.gov/sites/default/files/2020-03/Efiling_User_Training_Guide_Feb2020_ADA.pdf. Registration is necessary the first-time documents are uploaded. After registering, to submit a confidential filing click on **Quick Actions** from the **DASHBOARD** and select **Submit Confidential e-filing** from the dropdown list. The application must be uploaded first followed by one or more confidential files. **Failure to follow these steps may result in confidential material becoming public**. If you have questions regarding the filing process, contact the Docket Unit at docket@energy.ca.gov.

The following are some of the processes for requesting confidentiality of records:

A. Repeated Applications for Confidentiality (20 CCR 2505 (a)(4).)

These are applications claiming that the CEC has previously found the data confidential. It is not necessary to include legal arguments. If you are filing your request on this basis submit a letter including, the date and transaction number of the CEC's original determination letter if known and a certification that the records at issue are substantially similar to the records previously designated as confidential, and that the facts and circumstances have not changed.

B. Automatic Confidentiality for certain categories of data (20 CCR 2505 (a)(5).)

C. Records provided by Public Agencies (20 CCR 2505(b).)

D. Standard Applications for Confidentiality (20 CCR 2505(a)(1).)

These applications require the applicant to present a legal basis for a determination that the information submitted should be held as confidential and not subject to disclosure. A deficient or incomplete application may be subject to requests for clarification or be returned to the applicant with a statement of its defects.

For standard applications, provide a written letter (application for confidentiality) containing complete responses to the information requested below in the following order:



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1. Contact Information: (20 CCR 1208.1.)

Applicant Name: **Rene Monzon**

Phone Number: **562-533-5195**

E-mail: rene.monzon@firstelementfuel.com

Proceeding Name: **CEC Grant Agreement Number: ZVI-23-004**

Docket Number: **22-MISC-01**

2. Title, date, and description (including number of pages) of the information or data for which you request confidential designation. (20 CCR 1208.1.)

Task 2 Engineering Design and Finite Element Modeling (FEM) (FEF Innovation Center) Total Number of pages (Qty. 50)

Deliverable Products: Conclusion Report, Copy of Final Bill of Materials and Final Set of Drawings for Prototype Pump

3. Specify the part(s) of the information or data for which you request confidential designation. (If the data is in charts or spreadsheets, highlighting is sufficient.) (20 CCR 2505(a)(1)(B.))

Conclusion Report, Copy of Final Bill of Materials and Final Set of Drawings for Prototype Pump

4. State and justify the length of time the CEC should keep the information or data confidential. The term requested must be relevant to the stated basis for confidentiality. (20 CCR 2505(a)(1)(C.))

Length of time: **Indefinite**

Justification: **Intellectual Property, and trade secrets to build, assemble and test a Heavy Duty Cryopump**

5. State the provision(s) of the California Public Records Act or other law that allows the CEC to keep the information or data confidential and explain why the provision(s) apply to that material. (See Gov. Code, §§ 7920.000-7930.215.) (20 CCR (a)(1)(D.))

ARTICLE 1. Justification for Withholding of Record [7922.000- 7922.000.]

An agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record

In the event that the this record/data is released at the request for public interest, it will allow any competitor or public entity to duplicate and/or replicate of this intellectual property currently awaiting review/approval for U.S. Patent. Subject data contains trade secrets, and its disclosure would otherwise cause a loss of a competitive advantage in the hydrogen fast fueling industry.

6. If the applicant believes that the information or data should not be disclosed because it contains trade secrets or its disclosure would otherwise cause a loss of a competitive advantage, the application also shall



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state: (20 CCR (a)(1)(D.))

(a) the specific nature of that advantage,

Pursuant to a request for public record, release of this technical data will empower and allow for other Hydrogen distribution, manufacturing companies to duplicate, replicate and re-produce the configuration and assembly of this unique hydrogen delivery system.

(b) how the advantage would be lost,

At this time, this heavy duty cryopump does not exist. Significant time, labor, materials, and engineering efforts including testing, were utilized with First Element Fuel and the Bosch Rexroth corporation over the last 15 months. Any individual, entity, and/or corporation in receipt of this data can easily extract key configuration elements of the system and reverse engineer the manufacture, assemble and test this heavy duty, fast re-fueling system.

(c) the value of the information to the applicant, and

First Element Fuel and Bosch Rexroth do not currently own or operate intellectual property for a heavy duty cryopump. This information is vital to the growth of FEF and Rexroth in their mission to delivery hydrogen infrastructure and fast re-fueling for Class 8 Semi Trucks.

(d) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The difficulty level to duplicate the system, with the release of this data is Medium. Any Hydrogen infrastructure OEM's currently owning and operating cryo pumps can easily procure, manufacture and assemble the overall heavy duty cryopump system. Receipt and acquisition of sole source components is very high, yet very possible to be replaced by alternative hydraulic and cryogenic systems.

7. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions. State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why. (20 CCR 2505(a)(1)(E.))

The data can be disclosed if it is aggregated, and certain design elements are redacted from the initial submittal. Pending delivery and receipt of the US patents on this application allows for a high level risk of vulnerability to FEF and Rexroth.

8. State how the information or data is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred. (20 CCR 2505(a)(1)(F.))

The information is kept confidential in accordance with FEF data security and technical data management system. Without the proper request for data via electronic submission, review, and approval, all data is stored in a controlled, limited access source database. No external parties are granted access to the technical data. In addition, all external parties performing work or services on various components and hardware are required to complete a Non-Disclosure Agreement. Rexroth also has data management, ITAR restrictions, and electronic data, document control systems in place logging and tracking all requests for data internally and externally.

9. At the signature line, include a certification stating: "I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge." (20 CCR 2505(a)(1)(G.))



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10. State whether the applicant is a company, firm, partnership, trust, corporation, or other business entity, or an organization, or association and state that the person preparing the request is authorized to make the application and certification on behalf of the entity, organization, or association. (20 CCR 2505(a)(1)(G.))

Applicant is FirstElement Fuel, the company who applied, and received award of subject grant.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge

Signed: Rene Monzon
Title: Product Engineering Manager
Company: FirstElement Fuel