



LO-0715-16240

July 31, 2015

Docket: PROJ0769

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
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11555 Rockville Pike  
Rockville, MD 20852-2738

**SUBJECT:** NuScale Power, LLC Submittal of Presentation Materials Entitled "NuScale Design Specific Emergency Planning Zone Sizing Methodology and Program," Revision 0, (PM-0415-13885) for Use During a Public and Closed Meeting on August 12, 2015 (NRC Project No. 0769)

**REFERENCES**

1. Letter from NuScale Power, LLC to U.S. Nuclear Regulatory Commission "Key Issue Resolution Prior to Design Certification Application," LO-0715-16060, dated July 22, 2015
2. Presentation Slides Entitled "Design Certification Pre-Application Submittal Licensing Topic Resolution," PM-0415-13405-NP, Revision 0, dated April 21, 2015 (ML15111A203)

In the referenced letter dated July 22, 2015, NuScale Power, LLC (NuScale) provided an updated schedule for topical report submittals. Consistent with that schedule and the referenced April 21, 2015 presentation to NRC, NuScale hereby submits presentation materials entitled "NuScale Design Specific Emergency Planning Zone Sizing Methodology and Program," Revision 0, (PM-0415-13885).

NuScale has requested a meeting with the NRC on August 12, 2015, to discuss emergency planning program status, licensing strategy and schedule, and preliminary results of analyses that are in support of a methodology to determine an appropriate emergency planning plume exposure size. NuScale requested a meeting in which the first part would be public and the second part closed due to the proprietary nature of the information that will be presented and discussed.

The purpose of this submittal is to provide presentation materials to the NRC for use during this meeting. Enclosure 1 is the nonproprietary version of the presentation entitled "NuScale Design Specific Emergency Planning Zone Sizing Methodology and Program," Revision 0. Enclosure 2 is the proprietary version. NuScale requests that the proprietary version be withheld from public disclosure in accordance with the requirements of 10 CFR § 2.390. The enclosed affidavit (Enclosure 3) supports this request.

This correspondence includes certain preliminary and/or conceptual information which reflects the current stage of NuScale's design and analysis and may be subject to change.

This letter and its enclosures make no regulatory commitments and no revisions to any existing regulatory commitments.

Please feel free to contact Steven Mirsky at (301) 770-0472 or at [smirsky@nuscalepower.com](mailto:smirsky@nuscalepower.com) if you have any questions.

Sincerely,

Steven Mirsky  
NuScale Power, LLC  
Licensing Manager, Washington DC

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Enclosure 1: "NuScale Design Specific Emergency Planning Zone Sizing Methodology and Program,"  
PM-0415-13885-NP, Revision 0, nonproprietary version  
Enclosure 2: "NuScale Design Specific Emergency Planning Zone Sizing Methodology and Program,"  
PM-0415-13885-P, Revision 0, proprietary version  
Enclosure 3: Affidavit, AF-0715-16239



LO-0715-16240

**Enclosure 3:**

Affidavit, AF-0715-16239

**NuScale Power, LLC**

AFFIDAVIT of Thomas A. Bergman

STATE OF OREGON

CITY OF CORVALLIS

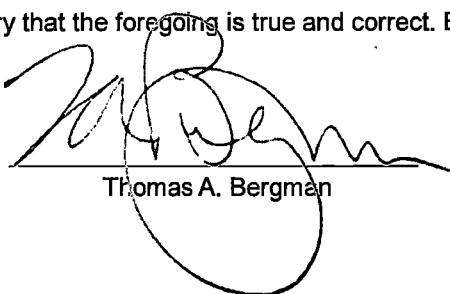
I, Thomas A. Bergman , state as follows:

- (1) I am the Vice President of Regulatory Affairs of NuScale Power, LLC (NuScale), and as such I am authorized to apply for withholding of information transmitted with this letter from public disclosure and to execute this affidavit on behalf of NuScale.
- (2) I am knowledgeable of the criteria and procedures used by NuScale in designating confidential commercial information as proprietary and have been specifically delegated the function of reviewing the information described in this affidavit that NuScale seeks to have withheld from public inspection.
- (3) The harm that would result if the information sought to be withheld is disclosed to the public is as follows:
  - (a) The presentation discloses information about the methods, design considerations, and calculation results by which NuScale is developing the technical basis for emergency planning zone size. NuScale has performed significant research and evaluation to develop the basis for these methods, design considerations, and calculation results, and has invested significant human and financial resources in such development.
  - (b) NuScale's unique methods, design considerations, and calculation results provide NuScale with a competitive economic advantage over other companies. Public disclosure of the information would cause substantial harm to NuScale's competitive position and reduce or foreclose opportunities for NuScale to generate a return on its investment in research and development. Although the exact financial value of the information is difficult to quantify, it is a key element of the design basis for a NuScale plant and, therefore, has substantial value to NuScale.
  - (c) If the information were disclosed to the public, NuScale's competitors would have access to the information without having been required to undertake a similar expenditure of resources. Such disclosure would constitute a misappropriation of NuScale's intellectual property, would unfairly provide NuScale's competitors with a windfall, and would deprive NuScale of the opportunity to seek an adequate return on its investment.
- (4) The information sought to be withheld is contained in the enclosed presentation scheduled for August 12, 2015 entitled "NuScale Design-Specific Emergency Planning Zone Sizing Methodology and Program," Revision 0. The enclosure contains the designation "NuScale Confidential - Proprietary Class 2" at the top of each page containing proprietary information. The information considered by NuScale to be proprietary is identified within double braces, "{{ }}" in the document.
- (5) The basis for proposing that the information be withheld is that NuScale treats the information as trade secrets and commercial or financial information that are privileged and confidential. NuScale relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC § 552(b)(4), as well as exemptions applicable to the NRC under 10 CFR §§ 2.390(a)(4) and 9.17(a)(4).

(6) With respect to the considerations set forth in 10 CFR § 2.390(b)(4):

- (a) The information sought to be withheld has been held in confidence by NuScale.
- (b) The information is of a sort customarily held in confidence by NuScale and, to the best of my knowledge and belief, consistently has been held in confidence by NuScale. The procedure for approval of external release of such information typically requires review by the staff manager, project manager, chief technology officer or other equivalent authority, or the manager of the cognizant marketing function (or his delegate), for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside NuScale are limited to regulatory bodies, customers and potential customers and their agents, suppliers, licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or contractual agreements to maintain confidentiality.
- (c) The information is being transmitted to and received by the NRC in confidence.
- (d) No public disclosure of the information has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or contractual agreements that provide for maintenance of the information in confidence.
- (e) Public disclosure of the information is likely to cause substantial harm to the competitive position of NuScale, taking into account the value of the information to NuScale, the amount of effort and money expended by NuScale in developing the information, and the difficulty others would have in acquiring or duplicating the information. The information sought to be withheld is part of NuScale's technology that provides NuScale with a competitive advantage over other firms in the industry. NuScale has invested significant human and financial capital in developing this technology and NuScale believes it would difficult for others to duplicate the technology without access to the information sought to be withheld.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 31, 2015.



Thomas A. Bergman