



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

November 10, 2021

James K. Joosten  
Connect-USA LLC  
25131 Chambliss Court  
Gaithersburg, MD 20882  
Email: JKJ@connect-usa.com

Dear Mr. Joosten:

This is in response to your letter dated October 14, 2021, "Request for Comment Period Extension on the NuScale Standard Design Certification Application Final Rulemaking."<sup>1</sup> You requested that the NRC (1) extend the public review and comment period by 75 days (to 180-days total) for the "public safety aspects of the NuScale Design Certification Application"; (2) extend the public review and comment period by "75 additional days for the common defense, security, and safeguards aspects of the final rulemaking"; and (3) grant a 30 day follow-on public review and comment period "after the NRC's initial response to the first set of comment[s] has been published."

The NRC values public participation in the rulemaking process and carefully considers requests to extend a comment period; however, for the reasons discussed below, your request is denied.

In your request, you state the extensions are needed due to:

- The relative importance of the rulemaking

**NRC Response:** The proposed rule provided 60 days for public comment (86 FR 34999; July 1, 2021), and the NRC extended the comment period by 45 days (86 FR 47251; August 24, 2021), providing a total comment period of 105 days. When the comment period closed on October 14, 2021, the NRC had received nine comment submissions on the proposed rule, "NuScale Small Modular Reactor Design Certification."

The 105-day comment period for the NuScale design certification proposed rule was significantly longer than previous design certification rulemakings, such as the AP1000 design certification rule (71 FR 4464; January 27, 2006), which had a 75-day comment period. The NRC believes 105 days is commensurate with the relative importance of design certification rules and with the expressed public interest in commenting on this rule.

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<sup>1</sup> ADAMS Accession Number: ML21288A123, e-mail received by the NRC on October 12, 2021.

- The unusually large volume of documents related to the design certification application (DCA) and the physical impossibility of reading, reviewing, analyzing and commenting on them within the existing comment period

NRC Response: The NRC acknowledges the large volume of documents associated with this proposed rule. However, most of these documents were publicly available before the proposed rule was issued. The NRC concludes that 105 days provided sufficient time for members of the public to develop substantial meaningful comments that the NRC will consider in the development of a final rule.

- The DCA's apparent neglect of significant threats to common defense, nuclear security, and safeguards controls

NRC Response: The NRC staff determined that the design certification application complies with the applicable NRC regulations as documented in the staff's Final Safety Evaluation Report. Further, your request did not provide information, such as examples, to support this statement, and therefore the NRC cannot determine whether reopening the comment period would address this matter.

- The presence of what appear to be inconsistencies and false claims in the DCA

NRC Response: NRC regulations require information provided by applicants to be complete and accurate in all material respects. See 10 CFR 52.6 and 50.9. The NRC is not aware of any material inconsistencies or false statements in the design certification application. Further, your request did not provide any information, such as examples, to support your statement, and therefore the NRC cannot determine whether reopening the comment period would address this matter. Specific claims of false statements in a design certification application may also be submitted to the NRC allegation coordinator. For information on how to submit specific allegations to the NRC, please see <https://www.nrc.gov/about-nrc/regulatory/allegations/safety-concern.html>. Additional information about the allegation program is available at <https://www.nrc.gov/about-nrc/regulatory/allegations-resp.html>.

- Repeated delays and obstructions to the public review and commentary process

NRC Response: All the publicly available documents that are part of the proposed rule were listed in the *Federal Register* notice with the appropriate ADAMS Accession Numbers to facilitate electronic access. In addition, the public comment period was extended, resulting in a total of 105 days for comments to be submitted.

- A failure to consider and balance the interests of this applicant against other more viable advanced reactor vendors

NRC Response: The NRC licenses and regulates the Nation's civilian use of radioactive materials to provide reasonable assurance of adequate protection of public health and safety and to promote the common defense and security and to protect the environment.

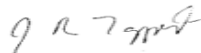
The NRC does not balance the interests of applicants against other vendors when determining appropriate length of comment periods.

Finally, your letter requests a delay in the commencement of the extended comment period pending resolution of irregularities in the publicly available records in docket 52-00048 and PROJ0769. The NRC is not aware of any inconsistencies with the publicly available records on these dockets and any NRC requirements. Regardless, the NRC is not reopening the comment period, and therefore will not be incorporating a delay.

The NRC is not reopening the public comment period for the NuScale Small Modular Reactor Design Certification proposed rule. At this time the NRC is not granting a follow-on public review and comment period after the NRC publishes its response to public comments. The NRC's policy, as stated in the proposed rule, is that comments received after the close of the public comment period will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before the last date of the comment period. In your case, however, because you have requested and been approved for access<sup>2</sup> to a non-public document in accordance with the procedures described in the proposed rule, after you sign a non-disclosure agreement (NDA) and obtain access, you will have an additional 25 days to submit comments. As discussed in Mr. Andrukat's November 1, 2021, email to you, the NRC is providing you until November 16, 2021,<sup>3</sup> to execute the NDA or provide alternative NDA provisions and procedures for consideration.

If you have any questions, please contact Yanely Malave at 301-415-1519, or by email at [Yanely.Malave@nrc.gov](mailto:Yanely.Malave@nrc.gov).

Sincerely,



Signed by Tappert, John  
on 11/10/21

John R. Tappert, Director  
Division of Rulemaking, Environmental,  
and Financial Support  
Office of Nuclear Material Safety  
and Safeguards

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<sup>2</sup> "Response to Appeal to the EDO Regarding NRC Staff Response to Request for Access to Proprietary Information and Safeguards Information Related to the NuScale SMR Standard Design Certification Application" ([ML21258A220](#))

<sup>3</sup> The NRC transmitted the draft NDA and procedures to you for review on September 28, 2021. By November 16, 2021, you will have had 49 days to review the draft NDA and procedures.