

April 15, 2022

Docket No. 99902078

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

SUBJECT: NuScale Power, LLC Submittal of NuScale NPM-20 250 MWt Standard Design Approval Pre-Application Activity Summary

REFERENCES:

1. Letter from NuScale Power to NRC, "NuScale Power, LLC Submittal of 'NuScale 250 MWt Standard Design Approval Regulatory Engagement Plan,' PL-0002-66070, Revision 2," dated February 16, 2021 (ML21047A475)
2. NRC Draft White Paper, "Preapplication Engagement to Optimize Application Reviews," dated October 15, 2020 (ML20281A761)

The purpose of this letter is to summarize past and planned NRC engagements in support of NuScale's upcoming Standard Design Approval Application (SDAA) submittal.

NuScale's pre-application engagements and activities for the upcoming SDAA have been extensive and comprehensive. Their execution is according to NuScale's Regulatory Engagement Plan (ML21047A475), which follows the NEI's "Guidelines for Development of a Regulatory Engagement Plan," NEI 18-06 as well as the NRC's draft guidance on "Pre-application Engagement to Optimize Advanced Reactor Application Reviews." A crosswalk of NuScale Pre-Application planning to that draft guidance is provided below (Enclosure 1-Table 1).

To date NuScale has had forty four (44) formal pre-application engagements with the NRC for the upcoming SDAA (Enclosure 1-Table 2) and have twelve (12) more planned this year ahead of the submission (Enclosure 1-Table 3). In addition, there have been many ad hoc meetings, bi-weekly fee review meetings, and bi-weekly Project Management Meetings between NuScale and the NRC, more than two years ahead of the planned submission.

To prepare for the SDAA, NuScale has also performed, or is planning to perform, extensive testing, as has been previously communicated to the NRC and some of which has, or will be, observed by the NRC (Enclosure 1-Table 4).

Lastly, to support the SDAA, NuScale has nine (9) already approved topical reports, four (4) submitted that are under review, and six (6) to be submitted by the end of this year (Enclosure 1-Table 5).

Enclosure 1 is the proprietary version of the NuScale NPM-20 250 MWt Standard Design Approval Pre-Application Activity Summary Tables. 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 2) supports this request.

This letter makes no regulatory commitments and no revisions to any existing regulatory commitments.

If you have any questions, please contact Mark Shaver at 541-360-0630 or at MShaver@nuscalepower.com.

Sincerely,



Mark W. Shaver
Manager, Regulatory Affairs
NuScale Power, LLC

Distribution: Rob Taylor, NRC
Brian Smith, NRC
Andrea Kock, NRC
Michael Dudek, NRC
Getachew Tesfaye, NRC
Bruce Baval, NRC

Enclosure 1: "NuScale NPM-20 250 MWt Standard Design Approval Pre-Application Activity Summary," proprietary version
Enclosure 2: Affidavit of Mark W. Shaver, AF-116959

Enclosure 1:

“NuScale NPM-20 250 MWt Standard Design Approval Pre-Application Activity Summary,”
proprietary version

Enclosure 2:

Affidavit of Mark W. Shaver, AF-116959

NuScale Power, LLC

AFFIDAVIT of Mark W. Shaver

I, Mark W. Shaver, state as follows:

- (1) I am the Manager, Licensing of NuScale Power, LLC (NuScale), and as such, I have been specifically delegated the function of reviewing the information described in this Affidavit that NuScale seeks to have withheld from public disclosure, and am authorized to apply for its withholding on behalf of NuScale
- (2) I am knowledgeable of the criteria and procedures used by NuScale in designating information as a trade secret, privileged, or as confidential commercial or financial information. This request to withhold information from public disclosure is driven by one or more of the following:
 - (a) The information requested to be withheld reveals distinguishing aspects of a process (or component, structure, tool, method, etc.) whose use by NuScale competitors, without a license from NuScale, would constitute a competitive economic disadvantage to NuScale.
 - (b) The information requested to be withheld consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), and the application of the data secures a competitive economic advantage, as described more fully in paragraph 3 of this Affidavit.
 - (c) Use by a competitor of the information requested to be withheld would reduce the competitor's expenditure of resources, or improve its competitive position, in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
 - (d) The information requested to be withheld reveals cost or price information, production capabilities, budget levels, or commercial strategies of NuScale.
 - (e) The information requested to be withheld consists of patentable ideas.

- (3) Public disclosure of the information sought to be withheld is likely to cause substantial harm to NuScale's competitive position and foreclose or reduce the availability of profit-making opportunities. The accompanying report reveals distinguishing aspects about the process by which NuScale is conducting its NPM-20 250 MWt Standard Design Approval pre-application activities.

NuScale has performed significant research and evaluation to develop a basis for this process and has invested significant resources, including the expenditure of a considerable sum of money.

The precise financial value of the information is difficult to quantify, but it is a key element of the design basis for a NuScale plant and, therefore, has substantial value to NuScale.

If the information were disclosed to the public, NuScale's competitors would have access to the information without purchasing the right to use it or having been required to undertake a similar expenditure of resources. Such disclosure would constitute a misappropriation of NuScale's intellectual property, and would deprive NuScale of the opportunity to exercise its competitive advantage to seek an adequate return on its investment.

- (4) The information sought to be withheld is in the enclosed report entitled NPM-20 250 MWt Standard Design Approval Pre-Application Activity Summary. The enclosure contains the designation "Proprietary" 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 a trade secret, privileged, or as confidential commercial or financial information. 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) Pursuant to the provisions set forth in 10 CFR § 2.390(b)(4), the following is provided for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld:
- (a) The information sought to be withheld is owned and 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 be 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 4/15/2022.



Mark W. Shaver