

November 28, 2012

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

SUBJECT: Resubmittal of Slides for Presentation during a Closed Meeting on December 3, 2012
(NRC Project: 0769)

REFERENCE: Letter from NuScale Power, LLC, dated November 21, 2012, to the U.S. Nuclear
Regulatory Commission, "Submittal of Slides for Presentation during a Closed
Meeting on December 3, 2012 (NRC Project: 0769)"

The above-referenced letter submitted a set of slides to be presented at a meeting with the NRC technical staff on December 3, 2012, to discuss the results of the NuScale regulatory gap analysis. The purpose of this letter is to submit these slides with the title page and footers amended to reflect a proprietary designation

Enclosed is the presentation entitled *Regulatory Gap Analysis Results: Regulations Requiring Further Consideration*, with amended title page and proprietary markings as requested (Enclosure 2). We request that the proprietary version be withheld from public disclosure in accordance with the requirements of 10 CFR 2.390. The enclosed affidavit (Enclosure 1) supports this request.

Please feel free to contact me at 541-207-3931 or ewallace@nuscalepower.com if you have any questions.

Sincerely,



Edward G. Wallace
Vice President, Regulatory Affairs

Enclosure 1: Affidavit, NP-AF-1112-2537

Enclosure 2: Regulatory Gap Analysis Results: Regulations Requiring Further Consideration -
proprietary

Distribution:

Michael Mayfield, NRC, TWFN-6 E04
Anna Bradford, NRC, TWFN-9 F27
Greg Cranston, NRC, TWFN-9 F27

NuScale Power, LLC

AFFIDAVIT of Edward G. Wallace

STATE OF Oregon

CITY OF Corvallis

I, Edward G. Wallace, state as follows:

- (1) I am the Vice President of Regulatory Affairs of NuScale Power, LLC (NuScale). I have personal knowledge of the facts set forth in this affidavit, and if called and sworn as a witness in a deposition or before any court, I could and would testify competently under oath to these facts. I am authorized to execute this affidavit on behalf of NuScale.
- (2) I have personal knowledge of the criteria and procedures used by NuScale in designating confidential commercial information as proprietary and have been delegated the function of reviewing the information described in this affidavit, which NuScale seeks to have withheld from public inspection. I have been authorized to apply for the withholding of this information on behalf of NuScale.
- (3) The following harm would result if the information sought to be withheld is disclosed to the public:
 - (a) The information sought to be withheld discloses information about the methods and processes by which NuScale develops a design approach to perform a plant-specific regulatory gap analysis. NuScale has performed significant research and evaluation to develop a basis for methodology, processes, and design and has invested significant human and financial resources in such development.
 - (b) NuScale's unique methodology, schedule, and design performance 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 would 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, the severe accident analysis approach 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 presentation scheduled for December 3, 2012, entitled *Regulatory Gap Analysis Results: Regulations Requiring Further Consideration*, and bears the designation "Proprietary Class 2" at the bottom of each page. The information considered by NuScale to be proprietary is identified within double brackets "{{ }}" in the slides.
- (5) The basis for proposing that the information be withheld is that NuScale treats the information as trade secrets and commercial 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 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, and licensees, and others with a legitimate need for the information and then only in accordance with appropriate regulatory provisions or 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 from public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made or must be made, pursuant to regulatory provisions or 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 affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

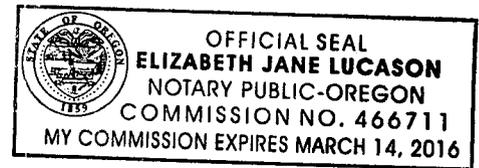


Edward G. Wallace

State of Oregon, County of Benton.

Subscribed and sworn to before me this 28th day of November 2012.


 Notary Public
March 14, 2016



My commission expires: