



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

March 7, 2023

Mr. John Volkoff, Manager
Combined License Applications
NuScale Power, LLC
1100 NE Circle Boulevard, Suite 200
Corvallis, OR 97330

SUBJECT: CARBON FREE POWER PROJECT - ONLINE REFERENCE PORTAL
INFORMATION ACCESS AGREEMENT

Michael I. Dudek
Digitally signed
by Michael I.
Dudek
Date: 2023.03.07
15:23:27 -05'00'

Dear Mr. Volkoff:

By letter dated October 12, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21299A363), Carbon Free Power Project, LLC (CFPP) informed the United States Nuclear Regulatory Commission (NRC) that it had selected Fluor to lead the CFPP combined license application (COLA), and that Fluor will utilize NuScale Power, LLC (NuScale), as the licensing lead and the point of contact for all interactions between the NRC and CFPP with respect to preapplication and COLA activities. CFPP's role is further described in the letter of October 12, 2021; it notes, in part, that CFPP is to receive a copy of non-proprietary correspondence.

To support pre-application interactions, NuScale and NRC staff have discussed the use of an online reference portal (also known as the electronic reading room or eRR) that would provide authorized NRC staff and contractors with limited read only access to certain materials owned by and under the control of NuScale and/or CFPP. Access to any eRR requires an NRC process (such as a regulatory Audit) to be viewed and shall be treated as proprietary/business confidential information that will not be shared or copied.

The purpose of the online reference portal is to enhance the NRC's ability to timely and efficiently perform its regulatory licensing responsibilities by providing access to reference materials. If the NRC staff determines that information viewed or accessed via the online reference portal is necessary for formal evaluation or otherwise necessary to support the NRC's regulatory licensing responsibilities, the NRC staff will request that NuScale formally submit such information in accordance with Title 10 of the *Code of Federal Regulations* Section 50.4, "Written communications."

The enclosed "Information Access Agreement" should be used as the only acknowledgement form for the authorized NRC staff and contractors' access to the online reference portal. Any proposed modification or addition to the enclosed "Information Access Agreement" would require further review by the NRC staff. The NRC requests that NuScale sign, date, and return the "Information Access Agreement" enclosed with this letter.

If you have any questions or comments concerning this matter, please contact Omid Tabatabai at (301) 415-6616 or via email at Omid.Tabatabai@nrc.gov.

Sincerely,

**Michael I.
Dudek**

Digitally signed by Michael
I. Dudek
Date: 2023.03.07 15:24:12
-05'00'

Michael I. Dudek, Chief
New Reactor Licensing Branch
Division of New and Renewed Licenses
Office of Nuclear Reactor Regulation

Docket No. 99902052

Enclosure:
As stated

cc: w/encl. CFPP Listserv

SUBJECT: CARBON FREE POWER PROJECT - ONLINE REFERENCE PORTAL
 INFORMATION ACCESS AGREEMENT
 DATED: MARCH 7, 2023

DISTRIBUTION:

- PUBLIC
- BSmith, NRR
- BThomson, NRR
- MDudek, NRR
- Otabatabai, NRR
- THayden, NRR
- SGreen, NRR
- DBarnhurst, NMSS
- KErwin, NMSS
- CRegan, NMSS
- JMoses, NMSS
- STurk, OGC
- MWoods, OGC
- MAibert, OGC
- RidsNrrOd Resource
- RidsOgcMailCenter Resource
- RidsNrrDnrl Resource

ADAMS Accession No: ML23037A015

***concurred via email**

NRR106

OFFICE	NRR/DNRL/NRLB*	NRR/DNRL/NRLB*	OGC*
NAME	Otabatabai	SGreen	STurk
DATE	02/6/2023	02/05/2023	03/06/2023
OFFICE	NRR/DNRL/NRLB*	NRR/DNRL*	
NAME	MDudek	BSmith	
DATE	03/07/2023	03/07/2023	

OFFICIAL RECORD COPY

INFORMATION ACCESS AGREEMENT BETWEEN NUSCALE POWER, LLC AND THE UNITED STATES NUCLEAR REGULATORY COMMISSION

This agreement is made and effective on this 07 day of March, 2023 ("Effective Date") by and between the United States Nuclear Regulatory Commission (NRC) and NuScale Power, LLC (NuScale) acting on behalf of Carbon Free Power Project, LLC (CFPP) (collectively "the Parties") for the purpose of facilitating the NRC's access to an online reference portal maintained by NuScale, through which NRC staff and contractors approved in accordance with Section 1 ("authorized NRC staff and contractors") may access certain documents related to activities associated with preapplication engagements and the development of the CFPP combined license application (COLA) for the CFPP site.

Whereas NuScale desires to enhance the NRC's ability to timely and efficiently perform its regulatory licensing responsibilities with respect to activities associated with the CFPP preapplication engagements and development of the COLA, including by providing the authorized NRC staff and contractors with access to certain documents owned by or under the control of NuScale or CFPP through an online reference portal, so that the NRC staff may access such information in a timely manner; and

Whereas information accessed by authorized NRC staff and contractors may consist of information considered by NuScale and/or CFPP to be trade secrets or privileged or confidential commercial and financial information ("Proprietary Information"); and

Whereas NuScale and/or CFPP is willing to make such Proprietary Information available to authorized NRC staff and contractors for the purpose of promoting timely and efficient performance of the NRC's regulatory licensing responsibilities with respect to activities associated with the CFPP preapplication engagements and development of the COLA, subject to the terms and conditions set forth below.

The Parties mutually agree as follows:

Terms:

1. At no charge to the NRC staff, NuScale and/or CFPP agrees to maintain and make available to authorized NRC staff and contractors an online reference portal in which NuScale and/or CFPP will provide access to documents relating to activities associated with the CFPP preapplication engagements and development of the COLA, which may include Proprietary Information. NuScale and/or CFPP will provide the NRC staff with login credential access to the online reference portal. The Parties will separately agree upon a list of the authorized NRC staff and contractors permitted to use the login credential access. This list of authorized users will include only NRC staff and contractors who have been determined to have a requisite need to access the online reference portal in furtherance of their official duties in relation to regulatory licensing responsibilities with respect to activities associated with CFPP's preapplication engagements and development of the COLA. This list of authorized users may be revised from time to time upon agreement of the Parties. The points of contact for the Parties for the purpose of agreeing upon the list of authorized users are NuScale's COLA Manager (for CFPP) and the NRC's Lead Project Manager for the preapplication and COLA (for the NRC).

2. The authorized NRC staff and contractors may use the online reference portal only to access NuScale and/or CFPP documents, including Proprietary Information, and only in furtherance of their official duties and in accordance with any of NuScale and/or CFPP's reasonable policies and procedures governing access and use. The Parties expressly recognize that NuScale reserves the right to revoke the NRC staff and its contractors' access to the portal at any time.
3. The online reference portal will be available to authorized NRC staff and contractors through "read-only" access with no capability to (a) modify information on the online reference portal, (b) control the online reference portal application, or (c) print, save, or download information from the online reference portal.
4. The Parties expressly acknowledge that documents placed into the online reference portal and made available to authorized NRC staff and contractors are owned by and under the control of NuScale and/or CFPP. The NRC staff does not consider documents placed in the online reference portal to constitute "agency records" for purposes of the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the NRC's implementing FOIA regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 9. The fact that NuScale and/or CFPP makes Proprietary Information available to the NRC staff as provided in this Agreement shall not, in and of itself, be construed as a waiver of the proprietary nature of such Proprietary Information, or as an indication that such information residing within the online reference portal is not "owned by," "under the control of," and "in the possession of" NuScale and/or CFPP.
5. If the NRC staff determines that information viewed or accessed via the online reference portal is necessary for formal evaluation or otherwise necessary in support of the NRC's regulatory licensing responsibilities with respect to activities associated with the CFPP preapplication engagements and development of the COLA, the NRC staff will request that NuScale formally submit such information to the NRC in accordance with 10 CFR § 50.4, "Written communications." NuScale and/or CFPP shall abide by the requirements in 10 CFR § 2.390(b) when submitting such information to the NRC if NuScale or CFPP seeks to have information contained within that correspondence withheld from public disclosure. If the NRC receives a FOIA request that encompasses records formally submitted by NuScale and/or CFPP to the NRC in accordance with the affidavit requirements of 10 CFR § 2.390(b), such information shall be subject to disclosure only in accordance with the provisions of 10 CFR § 9.19, "Segregation of exempt information and deletion of identifying details."
6. Information made available to the authorized NRC staff and contractors only through the online reference portal does not constitute "communications" as part of the formal licensing, oversight, or enforcement functions with respect to the CFPP preapplication and COLA pursuant to applicable regulations contained in 10 CFR. NuScale and/or CFPP is not required to submit an affidavit or mark documents in accordance with 10 CFR § 2.390 when making them accessible through the online reference portal. NuScale and/or CFPP makes no warranty, guarantee, or representation as to the completeness or accuracy of information that the authorized NRC staff or contractors access through the portal. With the exception of information made available solely through the online reference portal as described in this paragraph, NRC requirements governing completeness and accuracy of information apply to any information that NuScale and/or CFPP provides to the NRC or that NuScale and/or CFPP is required to maintain pursuant to statute or NRC regulations, orders, or license conditions.

7. This Agreement may be modified at any time in a writing signed by the Parties. Either party shall have the right, upon written notice to the other party, to terminate this Agreement, in whole or in part, at any time, without cost, penalty, or liability to any party.

IN WITNESS WHEREOF, the undersigned have executed this Agreement.

UNITED STATES NUCLEAR REGULATORY COMMISSION

By: Michael I. Dudek

Digitally signed by Michael I.
Dudek
Date: 2023.03.07 15:30:31 -05'00'



John Volkoff
2023.03.08 07:04:18 -05'00'

Title: Branch Chief, NRR/DNRL/NRLB

Date: March 07, 2023

NUSCALE POWER, LLC

By:

Title: Manager, Combined License Applications

Date: