



FOIA 86-202

RESPONSE TYPE

☒ FINAL☐ PARTIAL

DATE

FEB 16 1988

DOCKET NUMBER(S) (if applicable)

PDR-016  
RESPONSE TO FREEDOM OF  
INFORMATION ACT (FOIA) REQUEST

## REQUESTER

Ms. Billie P. Garde

## PART I.—RECORDS RELEASED OR NOT LOCATED (See checked boxes)

☐ No agency records subject to the request have been located.☐ No additional agency records subject to the request have been located.☒ Agency records subject to the request that are identified in Appendix K are already available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.☒ Agency records subject to the request that are identified in Appendix L are being made available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.☐ The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.☐ Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.☐ Agency records subject to the request are enclosed. Any applicable charge for copies of the records provided and payment procedures are noted in the comments section.☐ Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.☒ In view of NRC's response to this request, no further action is being taken on appeal letter dated April 9, 1986 (86-A-58).

## PART II.A—INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

☒ Certain information in the requested records is being withheld from public disclosure pursuant to the FOIA exemptions described in and for the reasons stated in Part II, sections B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

## Comments

Other records regarding Office of Investigations' investigations at the Fermi plant were addressed in response to the following FOIA requests: FOIA-86-244 and FOIA-86-245. Records that were released in response to those requests can be found in the NRC PDR under the name Puntenney.

SIGNATURE, DIRECTOR, DIVISION OF RULES AND RECORDS

*Donna H. Bundy*

## PART II B - APPLICABLE FOIA EXEMPTIONS

Records subject to the request that are described in the enclosed Appendices M are being withheld in their entirety or in part under FOIA Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.5(a) of NRC Regulations.

1. The withheld information is properly classified pursuant to Executive Order 12356 (EXEMPTION 1)

2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (EXEMPTION 2)

3. The withheld information is specifically exempted from public disclosure by statute indicated: (EXEMPTION 3)

Section 141-145 of the Atomic Energy Act which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).

Section 147 of the Atomic Energy Act which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).

X 4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated: (EXEMPTION 4)

X The information is considered to be confidential business (proprietary) information.

The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).

The information was submitted and received in confidence from a foreign source pursuant to 10 CFR 2.790(d)(2).

X 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency. (EXEMPTION 5)

X 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (EXEMPTION 6)

X 7. The withheld information consists of investigatory records compiled for law enforcement purposes and is being withheld for the reason(s) indicated: (EXEMPTION 7)

X Disclosure would interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (EXEMPTION 7(A))

X Disclosure would constitute an unwarranted invasion of personal privacy (EXEMPTION 7(C))

The information consists of names of individuals and other information the disclosure of which would reveal identities of confidential sources. (EXEMPTION 7(D))

## PART II C - DENYING OFFICIALS

Pursuant to 10 CFR 9.9 and/or 9.15 of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Rules and Records, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			SECRETARY	EDO
A. Bert Davis	Regional Administrator Region III	Appendix M		X

## PART II D - APPEAL RIGHTS

The denial by each denying official identified in Part II C may be appealed to the Appellate Official identified in that section. Any such appeal must be in writing and must be made within 30 days of receipt of this response. Appeals must be addressed as appropriate to the Executive Director for Operations or to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

APPENDIX K

DOCUMENTS ALREADY IN PDR

1. 7/16/85 Ltr from J. Keppler to W. Jens. Accession No. 8507220113
2. 1/9/86 Ltr from J. Keppler to R. Petticrew. Accession No.  
8607170015
3. 1/9/86 Ltr from J. Keppler to Cong. John Dingell. Accession No.  
8607170012
4. 2/21/86 Memo from Hayes to Stello. Accession No. 8712170151

APPENDIX L  
DOCUMENTS BEING PLACED IN THE PDR

1. 12/6/84 Memo from Triner to Tipton, subject: Background Info on Enrico Fermi 2 Nuclear Power Plant for Comm. Zech. (6 pages)
2. 7/12/85 Memo from Keppler to Denton, subject: Fermi Readiness for Full Power License. (2 pages)
3. 10/15/85 Memo from J. Lieberman to Denton/Taylor, subject: OI Review of Fermi Safeteam Program. (1 page)
4. 1/7/86 Memo from S. Noetzel, subject: Reactor Auxiliary Building Embedded Plates. (4 pages)
5. Undated Allegation Data Input. (2 pages)

AMS No. RIII-85-A-0176:

6. 9/9/85 Memo from P. Byron to C. Weil, subject: DECo Safeteam Concerns. (1 page)
7. 9/11/85 Memo from Weil to Pawlik, subject: Fermi Safeteam Concerns Nos. 665 and 673. (1 page)
8. 10/29/85 Memo from Weil to Norelius, subject: Office of Investigations' Review of the Fermi Safeteam. (1 page)
9. 12/5/85 Memo from Norelius to Weil, subject: Office of Investigations' Review of the Fermi Safeteam. (1 page)

AMS No. RIII-84-A-0024:

10. Various Dates Allegation Computer Update Sheets. (8 pages)
11. 1/26/84 Memo to Region III Files from P. M. Byron re: SAFETEAM Interview 1368 - Apparent Wrongdoing in Electrical Area. (1 page)
12. 2/2/84 Allegation Form. (1 page)
13. 11/7/84 Memo to E. T. Pawlik from C. H. Weil re: Update of Fermi SAFETEAM Items of Interest to OI w/enclosure Memo to R. C. Knop from P. M. Byron, dtd 10/23/84 re: SAFETEAM Responses. (2 pages)
14. 1/14/85 Memo to E. T. Pawlik from C. H. Weil re: Fermi SAFETEAM Final Responses (50-341). (1 page)

APPENDIX L  
(DOCUMENTS BEING PLACED IN THE PDR  
(Continued)

15. 6/26/85 Memo to C. E. Norelius from C. H. Weil re: OI Investigation of Records Falsification by L. K. Comstock Company at Fermi ((50-341) (AMS No. RIII-85-A-0024). (1 page)
16. 8/28/85 Memo to C. E. Norelius from C. H. Weil re: OI Investigation of Records Falsification by L. K. Comstock Company at Fermi (50-341) (AMS No. RIII-85-A-0024; RIII-84-A-0175). (1 page)

AMS No. RIII-84-A-0175:

17. Various Allegation Computer Update Sheets. (13 pages)  
Dates
18. 9/15/83 Memo to Region III file from P. M. Byron re: Allegation received by Fermi II SAFETEAM. (1 page)
19. 11/29/84 Memo to Sepssard from C. Weil, re: OI Request for Technical Assistance - Fermi, w/attachments:  
a. 11/19/84 memo from E. Pawlik to J. Keppler, subject: Request for Region III Tech. Support  
b. Allegation Data Form. (3 pages)
20. 1/14/85 Memo from C. Weil to E. Pawlik, subject: Fermi SAFETEAM Final Responses. (2 pages)
21. 2/21/85 Memo from Weil to Pawlik, subject: OI Request for Technical Assistance Fermi. (1 page)
22. 3/25/85 Memo from Weil to Pawlik, subject: Allegation re: Cut Radiographs at Fermi. (1 page)

APPENDIX M  
DOCUMENTS BEING WITHHELD IN WHOLE OR IN PART

1. 11/23/83 Letter from D. Wells to E. Pawlik, attaching report summarizing Safeteam allegation. (7 pages) Portions withheld, Exemptions 4 & 6.
2. 12/15/83 Memo from R. Kunkle to H. Heffner, subject: Response to Safeteam Review No. 384. (4 pages) Ex. 4, Entirety
3. 2/10/84 Memo from R. Markovich/J. Garin to R. Kunkle, subject: Response to Safeteam Review No. 397. (6 pages) Ex. 4, Entirety
4. 1/31/84 Letter from R. Kunkle to Byron, forwarding Safeteam Interview 470. (4 pages) Portions withheld, Exemptions 4 & 6.
5. 1/31/84 Letter from R. Kunkle to Byron, forwarding Safeteam Interview 460. (6 pages) Portions withheld, Exemptions 4 & 6.
6. 3/2/84 Memo from R. Markovich to R. Kunkle, subject: Response to Safeteam Interview No. 385. (9 pages) Ex. 4, Entirety
7. 9/10/84 Letter from "Jim" to F. Agosti, re: Employee work schedule. (5 pages) Portions withheld, Exemptions 4 & 6.
8. 10/25/84 Memo from W. Kaczor to R. Kunkle, subject: Final Response to Safeteam Interview No. 44. (7 pages) Ex. 4, Entirety
9. 10/25/84 Memo from J. Garin/R. Markovich to R. Kunkle, subject: Final Response to Safeteam Interview No. 1368. (6 pages) Ex. 4, Entirety
10. 12/12/84 Memo from R. Kunkle to Paul Byron, re: Safeteam Interviews. (1 pages) Ex. 4, Entirety
11. 9/6/85 Memo from Markovich to Piang, Subject: Safeteam Concern No. 690. (1 page), Ex. 4, Entirety
12. 2/16/84 Memo from C. Weil to E. Pawlik, subject: Forgery Allegations at Fermi-OI Case File Q3-83-040. (4 pages) Portions being withheld, Exemptions 6 & 7C. Releasable portions are being placed in the PDR.
13. 12/12/85 Draft - Statement of Facts Based on OI Interview Transcripts Fermi July 1, 1985, Rod Pull Incident. (9 pages) Exemption 5, Entirety.



APPENDIX M  
DOCUMENTS BEING WITHHELD IN WHOLE OR IN PART  
(Continued)

14. Undated Handwritten note to G. Wright from N. Chrissotimos, attaching memo from A. Davis to T. Tambling, subject: Potential Fermi Enforcement. (2 pages) Exemption 5, Entirety.
15. Various Certain records contained in Region III files that are subject to your request are being withheld in their entirety, pursuant to Exemption 7(A) because they relate to ongoing investigations.

# GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202  
Washington, D.C. 20036

(202) 232-8550

March 19, 1986

## FREEDOM OF INFORMATION ACT REQUEST

Director  
Office of Administration  
Nuclear Regulatory Commission  
Washington, D.C. 20555

## FREEDOM OF INFORMATION ACT REQUEST

FOIA-86-202  
Rec'd 3-24-86

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Government Accountability Project (GAP) requests copies of any and all agency records and information, including but not limited to notes, letters, memoranda, drafts, minutes, diaries, logs, calendars, tapes, transcripts, summaries, interview reports, procedures, instructions, engineering analyses, drawings, files, graphs, charts, maps, photographs, agreements, handwritten notes, studies, data sheets, notebooks, books, telephone messages, computations, voice recordings, computer runoffs, any other data compilations, interim and/or final reports, status reports, and any and all other records relevant to and/or generated in connection with all OI investigations of Detroit Edison's Fermi II plant located near Detroit, Michigan.

This request includes all agency records as defined in 10 C.F.R. 9.3a(b) and the NRC Manual, Appendix 0211, Parts 1.A.2 and A.3 (approved October 8, 1980) whether they currently exist in the NRC official, "working", investigative or other files, or at any other location, including private residences.

If any records as defined in 10 C.F.R. 9.3a(b) and the NRC Manual, supra, and covered by this request have been destroyed and/or removed after this request, please provide all surrounding records, including but not limited to a list of all records which have been or are destroyed and/or removed, a description of the action(s) taken relevant to, generated in connection with, and/or issued in order to implement the action(s).

~~89-012-80255~~



GAP requests that fees be waived, because "finding the information can be considered as primarily benefitting the general public," 5 U.S.C. 552(a)(4)(a). GAP is a non-profit, non-partisan public interest organization concerned with honest and open government. Through public outreach, the Project promotes whistleblowers as agents of government accountability. Through its Environmental Whistleblower Clinic, GAP offers assistance to local public interest and citizens groups seeking to ensure the health and safety of their communities.

We are requesting the above information as part of an ongoing monitoring project on the adequacy of the NRC's efforts to protect public safety and health at nuclear power plants.

For any documents or portions that you deny due to a specific FOIA exemption, please provide an index itemizing and describing the documents or portions of documents withheld. The index should provide a detailed justification of your grounds for claiming each exemption, explaining why each exemption is relevant to the document or portion of the document withheld. This index is required under Vaughn v. Rosen (I), 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974).

We look forward to your response to this request within ten working days.

Sincerely,

*Billie Pirner Garde*  
Billie Pirner Garde  
Director, Environmental  
Whistleblower Clinic