



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PA 19406-1415

November 2, 2011

IA-11-060

Brandon Collins
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NRC INVESTIGATION REPORT NO. 1-2011-034

Dear Mr. Collins:

This refers to the investigation by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) that was conducted at Exelon's Three Mile Island (TMI) facility, and completed on July 7, 2011. The investigation was conducted to determine, in part, whether you, a contractor employee, deliberately failed to report a June 2010 arrest on a personal history questionnaire (PHQ) you completed on July 28, 2010, to obtain unescorted access authorization (UAA) to the site. Based on the results of the OI investigation, the NRC has concluded that you deliberately violated Title 10 of the Code of Federal Regulations (CFR) Section 73.56(d)(2), "Personal history disclosure," which requires, in part, that any individual who is applying for UAA shall disclose the personal history information that is required by the licensee's access authorization program, including any information that may be necessary for the reviewing official to make a determination of the individual's trustworthiness and reliability. The PHQ required that you disclose all legal actions; however, you failed to record that you had been arrested on drug-related charges on June 13, 2010.

Additionally, the NRC has concluded that you violated 10 CFR 50.5, "Deliberate misconduct," by placing TMI in violation of 10 CFR 50.9, "Completeness and accuracy of information." By failing to report your June 13, 2010 arrest on the PHQ, you created an inaccurate record (the PHQ), which was required to be maintained by the licensee per TMI implementing procedure SY-AA-103-502, "Arrest Reporting," and the site Physical Security Plan. TMI relied on the inaccurate information presented on your PHQ, and inappropriately granted UAA to you. A copy of the NRC enforcement action issued to Exelon is enclosed.

After considering the information developed during the investigation, including that you were a non-supervisory level employee at the time of the violation and that you no longer have UAA, the NRC has decided to not take any enforcement action against you. Nonetheless, any similar violations in the future could result in NRC enforcement action.

You are not required to respond to this letter. However, should you choose to respond, your response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 475 Allendale Rd., King of Prussia, PA 19406 and marked "Open by Addressee Only," within 30 days of the date of this letter. You may contact Mr. Gene DiPaolo of my staff if you have any questions, at 610-337-5046.

This letter, and your response, if you choose to submit one, will not be made publicly available either electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's Agency-wide Documents Access and management System (ADAMS). However, you should be aware that all final NRC documents, including the final OI investigation report, are official agency records and may be made available to the public under the Freedom of Information Act (FOIA), subject to redaction of certain information in accordance with the FOIA. In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions against Individuals. This system, which is not publicly accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell J. Roberts". The signature is written in a cursive style with a large initial "D".

Darrell J. Roberts, Director
Division of Reactor Projects

This letter, and your response, if you choose to submit one, will not be made publicly available either electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's Agency-wide Documents Access and management System (ADAMS). However, you should be aware that all final NRC documents, including the final OI investigation report, are official agency records and may be made available to the public under the Freedom of Information Act (FOIA), subject to redaction of certain information in accordance with the FOIA. In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions against Individuals. This system, which is not publicly-accessible includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Sincerely,

/RA by David A. Ayres for/
Darrell J. Roberts, Director
Division of Reactor Projects

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*see previous sheet for concurrence

**per email to MMcLaughlin



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

November 2, 2011

EA-11-169

Mr. Michael J. Pacilio
Senior Vice President, Exelon Generation Company, LLC
President and Chief Nuclear Officer, Exelon Nuclear
4300 Winfield Rd.
Warrenville, IL 60555

SUBJECT: NRC INVESTIGATION REPORT NO. 1-2011-034 AND NRC INSPECTION
REPORT NO. 05000289/2011010

Dear Mr. Pacilio:

This letter refers to the investigation by the U. S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) that was conducted at Exelon's Three Mile Island (TMI) facility, and completed on July 7, 2011. The investigation was conducted to determine whether a contractor individual deliberately failed to report a June 13, 2010, arrest involving drug-related and driving under the influence charges, on a personal history questionnaire (PHQ) when he applied for unescorted access authorization (UAA) at TMI on July 28, 2010. Although TMI, in accordance with site procedures, conducted a criminal history check through the Federal Bureau of Investigation prior to granting the contractor UAA, the criminal check did not identify that the individual had been arrested (likely due to the temporal proximity of the arrest to the date on which the criminal check was conducted). Accordingly, TMI granted UAA to the individual, and he worked at the site from August 4-25, 2010. After leaving TMI, the individual applied for and received UAA at the Browns Ferry Nuclear Plant (Browns Ferry) and Cooper Nuclear Station (Cooper). Neither Browns Ferry nor Cooper was required to conduct a criminal history check, since the individual had recently been granted UAA at TMI, and TMI had performed such a check. In April 2011, the individual applied for UAA at Salem Nuclear Generating Station (Salem) which, in accordance with its site procedures, conducted a criminal history check, and identified the June 2010 arrest. Salem notified TMI, Browns Ferry, and Cooper of the individual's criminal background, and TMI informed the NRC of the issue.

Based on the evidence gathered during the OI investigation, including: (1) the individual's statement to Exelon; (2) Exelon's procedure regarding the processing of PHQs; and, (3) Exelon records which indicated that the individual had attended an in-processing orientation class at TMI, during which the students were instructed regarding how to correctly fill out a PHQ, and specifically the criminal history section, the NRC has concluded that the contractor deliberately caused Exelon to violate 10 CFR 50.9, "Completeness and accuracy of information." Specifically, the individual created an inaccurate record (the PHQ) by failing to include on it that he had been arrested. The PHQ was required to be maintained by the licensee per TMI implementing procedure SY-AA-103-502, "Arrest Reporting," and the site Physical Security Plan.

Because the violation was caused by the deliberate action of the individual, it was evaluated under the NRC's traditional enforcement process as set forth in the NRC Enforcement Policy. The NRC considered that the violation involved the willful action of a non-supervisory individual, and therefore determined that the violation is appropriately classified at Severity Level IV in accordance with the NRC Enforcement Policy. The current NRC Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov>; by selecting "About NRC," "How We Regulate," "Enforcement," and finally, "Enforcement Policy."

The NRC considered issuance of a Notice of Violation for this issue. However, after assessing the factors set forth in Section 2.3.2 of the NRC Enforcement Policy, the NRC determined that a non-cited violation (NCV) is appropriate in this case because, subsequent to the violation being identified, Exelon took appropriate corrective actions, including notifying the NRC and identifying the individual's action to other power reactor licensees through the Personnel Access Data System

A response to this letter is not required. However, if you contest this NCV or its significance, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the U.S. Nuclear Regulatory Commission, ATTN.: Document Control Desk, Washington, D.C. 20555-0001, with copies to the Regional Administrator, Region I; the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; and the NRC Resident Inspector at TMI, Unit 1.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response, if you choose to provide one, will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

M. Pacilio

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Should you have any questions regarding this letter, please contact Mr. Eugene DiPaolo at 610-337-5046.

Sincerely,



Darrell J. Roberts, Director
Division of Reactor Projects

Docket No. 50-289
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cc: Distribution via ListServ
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