

December 1, 2009

IA-09-025

Mr. Daniel Culver  
HOME ADDRESS DELETED  
UNDER 10 CFR 2.390

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES (NRC  
Office of Investigations Report No. 1-2008-023)

Dear Mr. Culver:

This refers to the investigation completed by the US Nuclear Regulatory Commission (NRC) Office of Investigations (OI) regarding your activities at Exelon Generation Company, LLC's (Exelon) Peach Bottom Atomic Power Station (Peach Bottom or the facility). The purpose of the investigation was, in part, to determine if you deliberately failed to provide complete and accurate information when completing your application and Personal History Questionnaire (PHQ) for obtaining unescorted access to the facility.

Licensee's use the information collected on employment applications to determine an applicant's acceptability for employment. On April 12, 2007, you completed an Application for Employment seeking a Maintenance position at Peach Bottom. You signed a statement that all information disclosed in the application was complete, true, and correct. Similarly, the PHQ is a means by which licensees collect information to make determinations about an individual's suitability for unescorted access, as required by 10 CFR 73.56 and the licensee's Physical Security Plan. On June 18, 2007, you completed a PHQ for unescorted access to Peach Bottom. The PHQ stated that all information on the questionnaire must be complete and accurate, and that intentionally providing misleading statements to any nuclear power plant with the intent to gain access is a violation of federal requirements. Additionally, the PHQ indicated that if such an instance is detected, the NRC may investigate you and, if appropriate, sanctions may be imposed against you. You signed a statement that, to the best of your knowledge, all information provided on the PHQ was correct, and that you understood that any deceptive, willful, or intentional acts of omission or untruthfulness, including misrepresentation, may constitute cause for denial or revocation of unescorted access.

In a letter dated June 5, 2009 (ADAMS Accession Number ML091560227), the NRC provided you a factual summary of the OI report and informed you that the NRC was considering escalated enforcement action against you for an apparent violation. Specifically, the NRC determined, based on the OI investigation, that you deliberately provided incomplete and inaccurate information to Exelon about: (1) the character of your military service, (2) your history of conduct in the military, and, (3) the nature of your military discharge. The NRC letter also offered you the opportunity to discuss the violation during a Predecisional Enforcement Conference (PEC) or to engage the NRC in an alternative dispute resolution (ADR) mediation session. On June 16, 2009, you informed Mr. Paul Krohn of the NRC Region I (RI) office that you wished to participate in a PEC.

On July 17, 2009, the PEC was conducted in the RI office in King of Prussia, Pennsylvania. During the PEC, you presented information about the reasons you failed to provide certain information on the PHQ and why you do not believe you acted deliberately. After considering the information developed during the investigation and the information that you presented at the PEC, the NRC maintains that a deliberate violation of NRC requirements occurred. The violation is described in the enclosed Order (Enclosure 1).

Specifically, the NRC has concluded that you violated 10 CFR 50.5(a)(2) when, on April 12, 2007, and June 18, 2007, you submitted to an NRC licensee (Exelon) an Application for Employment and a PHQ containing information that you knew to be incomplete or inaccurate in some respect material to the NRC. Specifically, the NRC has concluded that in your application and/or PHQ you deliberately provided inaccurate or incomplete information regarding (1) the name of the individual who was then acting as your supervisor, (2) your military rank, (3) your history of conduct in the military, and (4) the nature of your military discharge. Your actions impacted Exelon's ability to determine your suitability for employment and for unescorted access to Peach Bottom. Given the significance of the underlying issue and the deliberate nature of your actions, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III, a violation of moderate safety significance.

In addition, your deliberate misconduct has resulted in the loss of reasonable assurance that you may be relied upon, at this time, to comply with NRC requirements. Consequently, the NRC has decided to issue an Order that prohibits your involvement in NRC-licensed activities for a period of three years from the date of the Order. This Order, which is set forth in Enclosure 1, also requires you to provide the NRC, in writing, the name, address, and telephone number of your first employer in NRC-licensed activities following completion of the three year prohibition period. The purpose of this notification is to provide the NRC the opportunity to conduct inspections to ensure your compliance with NRC requirements.

In accordance with 10 CFR 2.202, you must provide a response to the enclosed Order within 20 days of its issuance. If sensitive, security-related information is included in the response, please mark the entire response, "Security-Related Information – Withhold Under 10 CFR 2.390." If your response does not contain any sensitive, security-related information, the NRC will make the response publicly available. In addition, you or any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the *Federal Register*. Please see the enclosed Order for further instructions. If a hearing request is submitted, the NRC will make the request publicly available. Therefore, please do not include any sensitive, security-related information in the hearing request, or, in the alternative, provide a redacted copy of the hearing request that does not include any sensitive security-related information.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of the enclosed Order shall be subject to criminal prosecution as set forth in that section. Violation of the enclosed Order may also subject the person to civil monetary penalty.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/

Roy P. Zimmerman  
Director, Office of Enforcement

Enclosures:

1. Order
2. NUREG/BR-0317

cc w/encl:  
Distribution via ListServ  
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State of Maryland

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Enforcement Coordinators RII, RIII, RIV  
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D Roberts, RI  
P Wilson, RI  
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F Bower, SRI, RI  
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A DeFrancisco, ORA  
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R Urban, ORA  
J McFadden, ORA  
D Screnci, PAO-RI  
N Sheehan, PAO-R  
C O'Daniell, RI  
R1DRPMailResource  
Region I OE Files (with concurrences)

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Sincerely,

/RA/

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Director, Office of Enforcement

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1. Order
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cc w/encl:

Distribution via ListServ  
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State of Maryland

SUNSI Review Complete: MMM (Reviewer's Initials)  
ADAMS Package ML093340591

OFFICE	RI/ORA		RI/DRP		RI/DRP		RI/DRS		RI/OI		RI/ORA	
NAME	MMcLaughlin		PKrohn		JClifford		DRoberts		EWilson		MBarkman for KFarrar	
DATE	10/09/09		10/13/09		10/22/09		10/26/09		10/27/09		10/29/09	
OFFICE	RI/ORA		RI/RA		HQ/NRR		HQ/OGC		HQ/OE		HQ/OE:D	
NAME	DHolody		SCollins		BBoger		NLO by MClark		GGulla		RZimmerman	
DATE	10/30/09		11/08/09		11/04/09		11/06/09		11/06/09		12/01/09	

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