

EDO Principal Correspondence Control

FROM: DUE: 05/05/06

EDO CONTROL: G20060397

DOC DT: 04/12/06

FINAL REPLY:

Alice E. Moore  
The Commonwealth of Massachusetts

EDATS: SECY-2006-0361

TO:

Chairman Diaz

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 06-0186

Reyes, EDO

DESC:

ROUTING:

Vermont Yankee Extended Power Uprate

Reyes  
Virgilio  
Kane  
Silber  
Dean  
Burns  
Dyer, NRR  
Collins, RI  
Cyr, OGC

DATE: 04/14/06

ASSIGNED TO:

CONTACT:

EDO

Shoop

SPECIAL INSTRUCTIONS OR REMARKS:

Coordinate with OGC. SECY to prepare exparte response on behalf of Commission.

Ref. G20060344.

# EDATS

Electronic Document and Action Tracking System

**EDATS Number:** SECY-2006-0061

**Initiating Office:** SECY

## General Information

**Assigned To:** OEDO

**OEDO Due Date:** 5/5/2006 5:00 PM

**Other Assignees:**

**SECY Due Date:** 5/5/2006 5:00 PM

**Subject:** Vermont Yankee Extended Power Uprate

**Description:**

**ADAMS Accession Numbers**

**Incoming:**

**Response:**

**Package:**

## Document Information

**Originating Organization:** State/Local Officials/Groups

**Originator Name:** Alice E. Moore

**Incoming Task Received:** Letter

**Date of Incoming Document:** 4/12/2006

**Document Received by OEDO Date:** 4/14/2006

**Date Response Requested by Originator:** NONE

**Addressee:** Chairman Diaz

## Process Information

**Action Type:** Letter

**Priority:** Medium

**Signature Level:** EDO

**Sensitivity:** None

**Urgency:** NO

**OEDO Concurrence:** YES

**OCM Concurrence:** NO

**Special Instructions:** Coordinate with OGC. SECY to prepare exparte response on behalf of Commission.

## Other Information

**Cross Reference Number:** G20060344,G20060397

**Related Task:**

**File Routing:** EDATS

**Agency Lesson Learned:** NO





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY  
ATTORNEY GENERAL

(617) 727-2200  
www.ago.state.ma.us

BY TELEPHONE FACSIMILE  
AND FIRST CLASS MAIL

April 12, 2006

Chairman Nils Diaz  
United States Nuclear Regulatory Commission  
Washington, D.C. 20005-0001

Re: Vermont Yankee Nuclear Power Station - Extended Power Uprate

Dear Chairman Diaz:

We urge you to reconsider your decision to make the license amendment allowing Vermont Yankee's extended power uprate immediately effective. We ask that you instead defer the effectiveness of the amendment until after your agency has decided on the important safety contentions raised by the State of Vermont and the New England Coalition in the pending adjudicatory hearing.

As Commissioner Gregory Jaczko stated in his March 8, 2006 memorandum ("Jaczko Memorandum") to the Commissioners, the Atomic Energy Act allows a license amendment to become immediately effective prior to a hearing only if it does not involve any significant hazards considerations. See Atomic Energy Act, section 189a(2)(A). The decision whether to make the amendment immediately effective should not prejudice the merits of a safety contention. Instead it should be based on whether the application raises significant hazards considerations. See Jaczko Memorandum. In a complicated case such as this, where parties have raised significant safety contentions, and in which the staff has imposed numerous license conditions, it is inappropriate to make the amendment effective before the adjudicatory process is complete.

The importance of addressing these safety contentions in advance of further uprates is highlighted by early indications that power increases may cause excessive vibrations in the plant. Indeed, the NRC temporarily froze the power increase at 105% in light of these vibrations. Although the initial freeze was lifted, it now appears that a subsequent power increase produced additional vibrations, resulting in yet another freeze of the uprate at 112.5%. These vibrations should cast serious doubt on the NRC's decision to make the amendment immediately effective.

We ask that you give serious consideration to each of the contentions raised by intervenors, including Vermont's contention that the uprate puts certain conditions in place that can make the emergency core cooling system ineffective or less effective. Since the emergency core cooling system is crucial for plant safety, a complete and detailed analysis of this potential effect is warranted.

Thank you for your consideration of this request.

Sincerely,

Alice E. Moore  
Chief, Public Protection Bureau





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY  
ATTORNEY GENERAL

(617) 727-2200  
www.ago.state.ma.us

FACSIMILE COVER SHEET

TO: Chairman Nils Diaz  
ORGANIZATION: United States Nuclear Regulatory Commission  
TELEPHONE #:  
FACSIMILE #: 301-415-1757

FROM: Alice Moore, Chief  
BUREAU/DIV.: Public Protection Bureau  
TELEPHONE #: (617) 727-2200  
FACSIMILE #: (617) 727-5762

TOTAL NO.  
OF PAGES SENT  
(including this cover page): 2

DATE: 4/12/06  
TIME: 11:15

COMMENTS: Please see the attached letter. Thank you.

IF THERE ARE PROBLEMS RECEIVING THIS TRANSMITTAL,  
PLEASE CONTACT SENDER

**\*\* CONFIDENTIALITY NOTE \*\***

The documents accompanying this facsimile transmission contain information from the Office of the Attorney General which may be CONFIDENTIAL AND/OR PRIVILEGED. The information is intended to be for the use of the individual or entity named on this transmittal sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately and return the original message to us at the above address by First Class Mail via the U.S. Postal Service. Thank you.

06 APR 12 PM 1:22  
COMMUNICATIONS SECTION