

# REGULATOR INFORMATION DISTRIBUTION SYSTEM (RIDS)

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 FACIL: STN-50-528 Palo Verde Nuclear Station, Unit 1, Arizona Publi 05000528  
 AUTH. NAME AUTHOR AFFILIATION  
 SCOTT, M. L. Coalition for Responsible Energy Education  
 RECIP. NAME RECIPIENT AFFILIATION  
 DENTON, H. R. Office of Nuclear Reactor Regulation, Director (post 851125)

SUBJECT: Petition to show cause per 10CFR2.206(a) requesting  
 suspension or mod of Unit 1 OL for containment sys retesting  
 (ILRT). Supporting documentation encl.

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January 31, 1986  
Coalition for Responsible  
Energy Education  
315 West Riviera Drive  
Tempe, Arizona 85282

Mr. Harold R. Denton,  
Director of Operation  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

In the Matter of:

Arizona Public Service, et.al.  
(Arizona Nuclear Power Project,  
Palo Verde Nuclear Generating  
Station Unit 1)

and all light water reactors

DOCKET NO. 50-528

Emergency Relief Petition

RE: Show Cause Petition Pursuant to 10 CFR 2.206(a) In the Matter  
of Arizona Public Service, et al., Requesting Suspension or  
Modification of the Operating License for Palo Verde Nuclear  
Generating Station Unit 1 for Containment System Retesting (ILRT),  
Re: PVNGS No. 1; Docket No. 50-528 (License Nos. NPF-34 and NPF-41)

This petition is brought by the Coalition for Responsible Energy  
Education (hereinafter referred to as "CREE" or "the Coalition")  
before the Director, Nuclear Reactor Regulation (NRR), pursuant  
to 10 CFR 2.206(a) and relevant sections of 10 CFR 2.202 and  
10 CFR 2.204. The petition sets forth the findings of an indepen-  
dent review of Palo Verde Nuclear Generating Station (PVNGS) No. 1  
integrated leak rate testing (ILRT), indicating that said test  
failed to meet applicable federal regulations due to its short  
duration, and therefore is invalid. (As set forth below, other  
items of concern were also raised regarding the PVNGS-1 ILRT.)  
Accordingly, the Coalition requests relief in the form of service  
upon Arizona Public Service/Arizona Nuclear Power Project (APS/  
ANPP) of an Order to Show Cause, pursuant to 10 CFR 2.202, why the  
Unit 1 operating license should not be suspended and the PVNGS-1  
containment ordered immediately retested in accordance with federal  
regulations.

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## .II. FACTS

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2 1. Enclosed is the affidavit of Dr. Zinovy V. Reytblatt,  
3 Associate Professor of the Illinois Institute of Technology, whom  
4 CREE entrusted with an independent review of the first Palo Verde  
5 Nuclear Generating Station Unit No. 1 leak rate test.

6 2. The affidavit cites severe violations of the applicable  
7 federal regulations (10 CFR 50, Appendix J, "Primary Reactor  
8 Containment Leakage Testing for Water-Cooled Power Reactors", and  
9 ANS standards).

10 3. Dr. Reytblatt maintains that, due to these violations, the  
11 test as presented in the Report cannot be acknowledged as valid.

12 4. In particular, from the Report it has been learned that the  
13 PVNGS-1 leak rate test was conducted on an exemption basis with a  
14 total test duration shorter than is allowed by the applicable  
15 federal regulations.

16 5. CREE unfortunately was not able to provide Dr. Reytblatt  
17 the raw test data. Only data that has been processed in a special  
18 manner is available, preventing more detailed analysis. However,  
19 the conclusions reached on the basis of Dr. Reytblatt's examination  
20 of the test Report are sufficient to demonstrate violation of the  
21 applicable federal regulations.

## .III. AUTHORITY

22  
23 1. Title 10 of the Code of Federal Regulations 2.206(a)  
24 establishes the right of the public to petition the Director of  
25 Nuclear Reactor Regulation and other specified directors to  
26 institute proceedings pursuant to 10 CFR 2.202 and 10 CFR 2.204 to

1 modify, suspend or revoke a license, or for other relief as may be  
2 proper.

3 2. Pursuant to 10 CFR 2.206(a), the Commission may institute  
4 such a proceeding by serving upon the licensee an Order to Show  
5 Cause.

6 3. The Atomic Energy Act of 1954 gives discretion to revoke,  
7 suspend or modify the license or construction permit of an NRC  
8 licensee:

9 A license or construction permit may be revoked,  
10 suspended or modified in whole or in part... because  
11 of conditions revealed by the application for license  
12 or statement of fact or any report, record, inspection,  
13 or other means which would warrant the Commission to  
14 refuse to grant a license on an original application;  
or for failure to construct or operate a facility in  
accordance with the technical specifications in the  
application; or for the violation of or failure to  
observe any of the terms and provisions of this  
chapter or of any regulation of the Commission.

15 42 U.S.C. 2236.

16 4. Appendix J to 10 CFR 50 does not allow operation of nuclear  
17 reactors where the containment leak rate has not been proven to  
18 fall within limits specified through the operating license, as  
19 demonstrated by an integrated leak rate test conducted according  
20 to applicable regulations and standards. (See affidavit, attached  
21 hereto and fully incorporated by reference.)

22 5. Notwithstanding the discretionary aspect of 42 U.S.C. 2236  
23 (supra), the NRC has a mandatory duty to exercise its authority  
24 when necessary, and is required to determine that there will be  
25 adequate protection of the public health and safety. See  
26 Natural Resources Defense Council vs. U.S. Nuclear Regulatory

1 Commission, 528 F. 2d 166 (2d Cir., 1978).

2 6. 10 CFR 2.206(b) establishes that the appropriate director  
3 shall institute Show Cause proceedings or advise the person  
4 requesting said proceeding in writing of the reasons for denying  
5 the request "within a reasonable time."

6 " III. DESCRIPTION OF PETITIONER

7 1. The Coalition for Responsible Energy Education is a non-  
8 profit volunteer organization based in Maricopa County, Arizona.  
9 The Coalition's headquarters are located at 315 W. Riviera Dr.,  
10 Tempe, Arizona. CREE was founded in 1982 to address energy issues  
11 in Arizona, with special emphasis on nuclear power, through public  
12 education, research, litigation and advocacy. The Coalition,  
13 through its officers and attorneys, has represented its members  
14 through show cause petitions and in public meetings with the U.S.  
15 Nuclear Regulatory Commission and through intervention before the  
16 Arizona Corporation Commission. The Coalition's membership  
17 consists of individuals residing in and organizations based in  
18 Arizona.

19 2. The petitioner, Myron L. Scott, is Intervention Coordinator  
20 for the Coalition for Responsible Energy Education and has been  
21 authorized by the CREE Board of Directors to act on behalf of the  
22 Coalition in all matters pertaining to the U.S.NRC.

23 3. The Coalition recently filed Comments on the draft proposed  
24 revisions to the source terms estimates (Draft NUREG-0956),  
25 emphasizing, among other points, uncertainties regarding contain-  
26 ment integrity as a generic concern.

1 4. The petitioner and the Coalition submit this petition on  
2 behalf of all Arizonans concerned about the environmental and  
3 public health effects of potential radiation releases, due to  
4 inadequate containment integrated leak rate testing, to this and  
5 future generations.

#### 6 IV. CONCLUSIONS OF LAW

7 1. 42 U.S.C. §2236(1) and 10 CFR 50.100 provide that a license  
8 or permit may be revoked, suspended or modified because of "condi-  
9 tions which would warrant the Commission to refuse to grant a  
10 license on an original application...."

11 2. 42 U.S.C. §2236(a) and 10 CFR 50.100 also provide that a  
12 license or permit may be revoked, suspended or modified "for failure  
13 to construct or operate a facility in accordance with the terms of  
14 the construction permit or license.... or for violation of, or  
15 failure to observe, any of the terms and provisions of the act,  
16 regulations, license, permit, or order of the Commission."

17 3. The Report of and independent technical analysis of the  
18 PVNGS-1 ILRT, and particularly the failure to conduct a test of  
19 sufficient duration, are sufficient evidence of the violation of  
20 applicable federal regulations and fulfill the conditions of the  
21 Atomic Energy Act and Chapter 10 of the Code of Federal Regula-  
22 tions.

#### 23 V. RELIEF REQUESTED

24 1. Based on the foregoing, the Coalition requests and demands  
25 that the leak rate test at Palo Verde Unit No. 1 be conducted in  
26 accordance with the present applicable regulations before

1 operation of PVNGS Unit No. 1 is allowed to continue; and

2 2. Request that all the materials from this test including the  
3 raw data and computer programs - and of all previous test at PVNGS  
4 including Unit 2 - must be made public documents.

5 3. We seek emergency relief which must include adjustment of  
6 the test procedures to comply with all the requirements of  
7 applicable regulations and standards; and

8 4. An immediate shutdown of the PVNGS No. 1 reactor and  
9 retesting of the containment system.

10 5. WHEREFORE, the Coalition for Responsible Energy Education  
11 prays that the Director, pursuant to 10 CFR 2.202(a), issue an  
12 Order to Show Cause upon Arizona Public Service (Arizona Nuclear  
13 Power Project) to initiate the requested relief;

14 RESPECTFULLY SUBMITTED THIS 3<sup>RD</sup> day of FEBRUARY, 1986.

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17 

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