testing was conducted ''under the direct supervision and total control of Industrial Testing Laboratories, Inc.'' In fact, the test had been conducted under the supervision and control of TSI, with an ITL representative merely witnessing the test and verifying furnace temperature readouts.

7. Regarding ITL Report 87–6–350, the report's headings and titles indicate that the report was prepared by ITL. This information was inaccurate in that TSI wrote this report, using ITL stationery that TSI had obtained from ITL. Section 3 of the report stated that the subject testing was conducted ''under the direct supervision and total control of Industrial Testing Laboratories, Inc.'' In fact, the test had been conducted under the supervision and control of TSI, with an ITL representative merely witnessing the test and verifying furnace temperature readouts.

8. Regarding ITL Report 85–1–106, the report's headings and titles indicate that the report was prepared by ITL. This information was inaccurate in that TSI wrote this report, using ITL stationery that TSI had obtained from ITL. Section 3 of the report stated that the subject testing was conducted ''under the direct supervision and total control of Industrial Testing Laboratories, Inc.'' In fact, the test had been conducted under the supervision and control of TSI, with an ITL representative merely witnessing the test and verifying furnace temperature readouts.

9. Regarding ITL Report 85–4–377, the report's headings and titles indicate that the report was prepared by ITL. This information was inaccurate in that TSI wrote this report, using ITL stationery that TSI had obtained from ITL. Page (i) of the report represents that the ITL representative witnessing the test (Clarence Bester) was a professional engineer. This is inaccurate in that Mr. Bester was not a professional engineer. Section 3 of the report stated that the subject testing was conducted ''under the direct supervision and total control of Industrial Testing Laboratories, Inc.'' In fact, the test had been conducted under the supervision and control of TSI, with an ITL representative merely witnessing the test and verifying furnace temperature readouts.

The reports TSI submitted to the NRC on or about August 31, 1992 were material to the NRC because they were submitted by TSI: (1) In response to concerns the NRC had raised about the quality and adequacy of Thermo-Lag products; (2) in the context of an ongoing NRC investigation into concerns about the quality and performance of Thermo-Lag products; and (3) to influence the NRC's investigation into whether Thermo-Lag products met the fire barrier requirements of 10 CFR 50.48 and 10 CFR part 50, appendix R. (09011)

This is a Severity Level I violation (Supplement VII)

Civil Penalty—$100,000

Summary of TSI's Answer to Violation I

In denying Violation I, TSI stated that at all times it acted and intended to act in accordance with all applicable requirements. TSI stated that no false statements were ever deliberately made by its representatives, and that its representatives ''never deliberately omitted to disclose any material information to the NRC.'' In support of its denial, TSI referenced the fact that based on the evidence presented at the criminal trial in 1995, the jury acquitted TSI of all charges.

NRC Evaluation of TSI's Answer to Violation I

TSI's brief pro forma answer on the facts provides no rebuttal or other information regarding the detailed allegations made in Violation I. The answer makes no attempt to explain why the allegations are incorrect. In the absence of new information, the NRC staff continues to believe that violations of NRC requirements occurred as alleged in Violation I, that these violations are properly classified as Severity Level 1, and that these violations carry a high degree of regulatory significance. Accordingly, the NRC staff finds that the proposed civil penalty of $100,000 should be imposed for Violation I.

NRC Conclusion

The NRC has concluded that the violations alleged in the Notice occurred as stated. TSI did not provide any basis for reducing the severity level of the violations, and did not provide any basis for mitigation of the proposed civil penalties. Consequently, the proposed civil penalty in the amount of $900,000 should be imposed on TSI.

[FR Doc. 99–11818 Filed 5–10–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation (Wolf Creek Generating Station); Exemption

I

Wolf Creek Nuclear Operating Corporation (WCNOC or licensee) is the holder of Facility Operating License No. NPF–42, which authorizes operation of the Wolf Creek Generating Station (WCGS). The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now and hereafter in effect.

The facility is a pressurized water reactor located at the licensee's site in Coffey County, Kansas.

II

Section 50.60(a) to 10 CFR part 50 requires that except as provided in § 50.60(b), all light-water nuclear power reactors, other than reactor facilities for which the certifications required under section 50.82(a)(1) have been submitted, must meet the fracture toughness and material surveillance program requirements for the reactor coolant pressure boundary set forth in appendices G and H of 10 CFR part 50. Section 50.60(b) of 10 CFR part 50 states that proposed alternatives to the described requirements of appendices G and H of part 50 or portions thereof may be used when an exemption is granted by the Commission under 10 CFR 50.12.

III

By letter dated December 29, 1998, WCNOC requested that the NRC exempt WCGS from the application of specific requirements of 10 CFR 50.60 and appendix G to 10 CFR Part 50. Specifically, WCNOC proposes to use American Society for Mechanical Engineers (ASME) Code Case N–514 to permit setting the pressure setpoint of WCGS's cold overpressure mitigation system (COMS) such that the pressure-temperature (P–T) limits required by appendix G of 10 CFR part 50 could be exceeded by ten percent during a low temperature pressure transient.

The Commission has established requirements in 10 CFR part 50 to protect the integrity of the reactor coolant system pressure boundary. As a part of these, appendix G of 10 CFR part 50 requires that P–T limits be established for reactor pressure vessels (RPVs) during normal operation and vessel hydrostatic testing. As stated in appendix G, ''The appropriate requirements on . . . the pressure-temperature limits . . . must be met for all conditions.'' In order to avoid approaching these P–T limit curves and provide pressure relief during low temperature overpressurization events, pressurized water reactor licensees have installed protection systems (COMS) as part of the reactor coolant system pressure boundary. WCNOC is required as part of the WCGS Technical Specifications (TS) to develop, update,

and submit reactor vessel P–T limits and COMS setpoints for NRC review and approval.

WCNOC determined that the exemption request from the provisions of 10 CFR 50.60 and appendix G was necessary since these regulations require, as noted above, that reactor vessel conditions not exceed the P–T limits established by appendix G. In referring to 10 CFR 50.12 on specific exemptions, WCNOC cited special circumstances regarding achievement of the underlying purpose of the regulations as their basis for requesting this exemption (10 CFR 50.12(a)(2)(ii)).

WCNOC noted in support of the 10 CFR 50.12(a)(2)(ii) criteria that the underlying purpose of the subject regulation is to establish fracture toughness requirements for ferritic materials of pressure retaining components of the reactor coolant pressure boundary. To accomplish this, appendix G of Section XI of the ASME Code requires the P–T limits be calculated: (a) Using a safety factor of 2 on the principal membrane (pressure) stresses, (b) with margin added to the reactor vessel nil ductility reference temperature (RT_{NDT}) in accordance with Regulatory Guide 1.99, Rev. 2, ''Radiation Embrittlement of Reactor Vessel Materials,'' (c) assuming a flaw at the surface with a depth of ¼ of the vessel wall thickness and a length of 6 times its depth, and (d) using a conservative fracture toughness curve that is based on the lower bound of static, dynamic, and crack arrest fracture toughness tests on material similar to the reactor vessel material. Code Case N–514 provides for normal operation within the P–T limits determined in accordance with ASME Section XI, appendix G, but allows determination of setpoints for COMS events such that the maximum pressure in the vessel would not exceed 110 percent of the appendix G limits.

WCNOC proposed that establishing the COMS pressure setpoint in accordance with the N–514 provisions, such that the vessel pressure would not exceed 110 percent of the P–T limit allowances, would still provide an acceptable level of safety and mitigate the potential for an inadvertent actuation of the COMS. The safety margins provided by application of Code Case N–514 result in a safety factor of 1.8 on the principal membrane (pressure) stresses, with all other factors, including assumed flaw size and fracture toughness, remaining the same as ASME Section XI, appendix G, methodology. Due to the isothermal nature of the COMS events, the margin with respect to toughness for a COMS transient is within the range provided by ASME Section XI, appendix G, for normal heatup and cooldown in the low temperature range. Thus, applying Code Case N–514 will satisfy the intent of 10 CFR 50.60 for fracture toughness requirements. Further, application of Code Case N–514 will relieve operational restrictions for WCGS; it will reduce the potential for inadvertent RCS pressure relief events, thereby improving plant safety, and will reduce unnecessary burdens on operators during important plant evolutions.

The Commission has determined that application of 10 CFR 50.60 in these particular circumstances is not necessary to achieve the underlying purpose of that rule and that the use of Code Case N–514 would meet the underlying intent of the regulation. Based upon a consideration of the conservatisms which are explicitly defined in the appendix G methodology, it was concluded that permitting the COMS setpoint to be established such that the vessel pressure would not exceed 110 percent of the limit defined by P–T limit curves would provide an adequate margin of safety against brittle failure of the reactor vessel. This is also consistent with the determination that has been reached for other licensees under similar conditions based on the same considerations. Therefore, the exemption requested under the special circumstances of 10 CFR 50.12(a)(2)(ii) was found to be acceptable. The staff also agrees that limiting the potential for inadvertent COMS actuation may improve plant safety.

IV

The Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, is consistent with the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants Wolf Creek Nuclear Operating Corporation an exemption from the requirements of 10 CFR 50.60 in order to apply ASME Code Case N–514 for determining the WCGS cold overpressurization mitigation system pressure setpoint.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (64 FR 23136).

This exemption is effective upon issuance.

Dated at Rockville, Md., this 30th day of April 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–11817 Filed 5–10–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 10, 17, 24, and 31, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 10

Wednesday, May 12

9:00 a.m. Discussion of Management Issues (Closed-Ex. 2 and 6)

Week of May 17—Tentative

There are no meetings scheduled for the Week of May 17.

Week of May 24—Tentative

Thursday, May 27

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of May 31—Tentative

There are no meetings scheduled for the Week of May 31.

The schedule for Commission Meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or *dkw@nrc.gov*.