

Ex  
6,  
**Background-** In his DPV, [REDACTED] takes exception with the processing of a violation of 10 CFR 50.70 observed by the Turkey Point Resident Inspector on January 28, 2002, as an NCV. He contends that the issue, which involved announcing an inspector's presence contrary to the regulation, should have been processed as a violation. In the discussion contained in the DPV, [REDACTED] makes the following major points:

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- Processing this issue as an NCV has generic or broad implications on the ability of the inspectors to monitor licensee activities as they normally occur.
- The licensee's investigation concluded that the event did not happen as described by the NRC. [REDACTED] suggests that this different conclusion regarding what happened, allowed the licensee to downplay the issue, thereby stopping any enforcement action.
  - Processing an issue as an NCV based on entering the issue into the corrective action program, allows the licensee to take only token corrective actions and not address the underlying root cause or organizational culture which fostered the violation.

As a remedy, he suggests that the enforcement process be modified to require that the licensee address the issue.

panel during which  
**Documentation-** The team reviewed the DPV filed by [REDACTED] Turkey Point [REDACTED] which documented the NCV in question, and the meeting minutes for the ARB of February 5, 2002, where the issue was presented for OI consideration. Additional NRC documentation such as the management directive associated with DPVs, the statements of consideration for 10 CFR 50.70 and 10 CFR 50.5, the Enforcement Policy, and selected regional office instructions was also reviewed by members of the panel. The panel also reviewed the licensee's corrective action document which captured the issue.

**Interviews-** The following persons were interviewed by members of the panel:

[REDACTED] Ex-6  
Carolyn Evans - Regional Counsel/Enforcement Officer  
Randy Musser - Acting Branch Chief  
Son Ninh - Project Engineer/Acting Branch Chief  
Victor McCree - Deputy Division Director DRP  
Len Williamson - Acting OI Director

#### Findings-

1. The panel agrees that announcing the presence of NRC inspectors can impact the ability of the inspectors to monitor licensee activities as they normally occur. However, based on the information reviewed, during its review, the panel does not agree that processing this issue as an NCV had broad programmatic implications. The panel believes that a licensee should be able to effectively resolve issues such as this if its corrective action program is sound. The panel did not review any information to suggest that the Turkey Point corrective action program is not sound. :

information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions 6  
FOIA- 2002-361

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5. During its review, the team noted that the concurrence page for the inspection report, annotated by [REDACTED] to reflect his concerns with the processing of this issue as an NCV was not included in the ADAMS version of the report. The provisions of ROI 2210 were not invoked since he did concur with the report. Further, it does not appear that the practice of retaining comments recorded during the concurrence process is explicitly required by existing Region II procedures. However, the panel felt that not including this information could result in losing information associated with the concurrence process for a report. The panel recommends that an existing ROI be modified to identify the need to include comments on the concurrence page (as appropriate) in ADAMS.
  6. From its review of the Enforcement Policy, the panel also believes that the issue should have been processed through traditional enforcement as an issue that impacted the regulatory process as a Severity Level IV issue instead of as a *No Color* issue.

**Conclusion-** The panel does not support [REDACTED] DPV, in that it does not believe that a change to the enforcement process is warranted. However, the panel feels that followup by the NRC is required to establish whether the violation was willful or not.

*regarding determining*

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