

# CATEGORY 1

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RECIP. NAME                      RECIPIENT AFFILIATION

SUBJECT: EN-98-034: on 980428, notice of orders prohibiting involvement in NRC-licensed activities (effective immediately) issued to AM Nardslico & TC Johnson. Actions based on NRC investigation concluded Nardslico & Johnson violated 10CFR50.5(a)(1).

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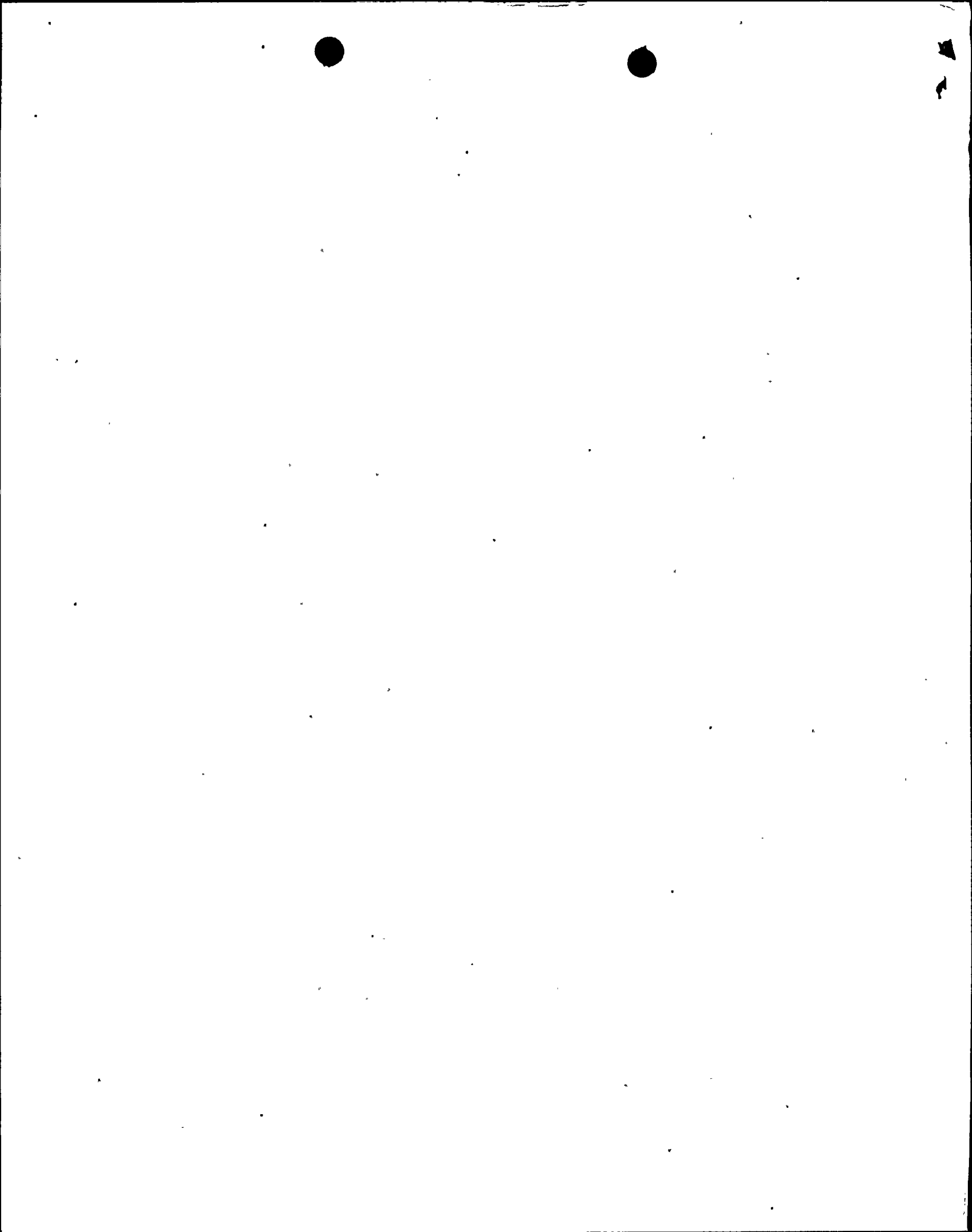
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April 28, 1998  
EN 98-034

**OFFICE OF ENFORCEMENT**  
**NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION AND EXERCISE OF**  
**ENFORCEMENT DISCRETION**

**Individual:** Albert M. Nardslico (IA 98-001)  
Thomas C. Johnson (IA 98-002)

**Licensee:** Niagra Mohawk Power Corporation  
Nine Mile Point  
Docket Nos. 50-220 & 50-410

**Subject:** ORDERS PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES  
(EFFECTIVE IMMEDIATELY) TO INDIVIDUALS & EXERCISE OF  
ENFORCEMENT DISCRETION TO LICENSEE

This is to inform the Commission that Orders Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) will be issued on or about April 28, 1998, to Messrs. Albert M. Nardslico and Thomas C. Johnson. The actions are based on an NRC investigation which concluded that Messrs. Nardslico and Johnson violated 10 CFR 50.5(a)(1) by deliberately causing the licensee to violate 10 CFR Part 26 by their involvement in a scheme which altered the computer code intended to assure that individuals are selected for fitness-for-duty testing in a statistically random and unpredictable manner. As a result of the intentional alteration, several individuals, including Mr. Nardslico, required to be subject to random testing, were excluded from the population available for random testing. The Orders remove Messrs. Nardslico and Johnson from engaging in NRC-licensed activities for a period of 5 years. Additionally, for a period of three years after the five year period of prohibition has expired, Messrs. Nardslico and Johnson are required to notify the NRC of their acceptance of each employment offer involving NRC-licensed activities.

It should be noted that the individuals have not been specifically informed of the enforcement action. The schedule of issuance and notification is:

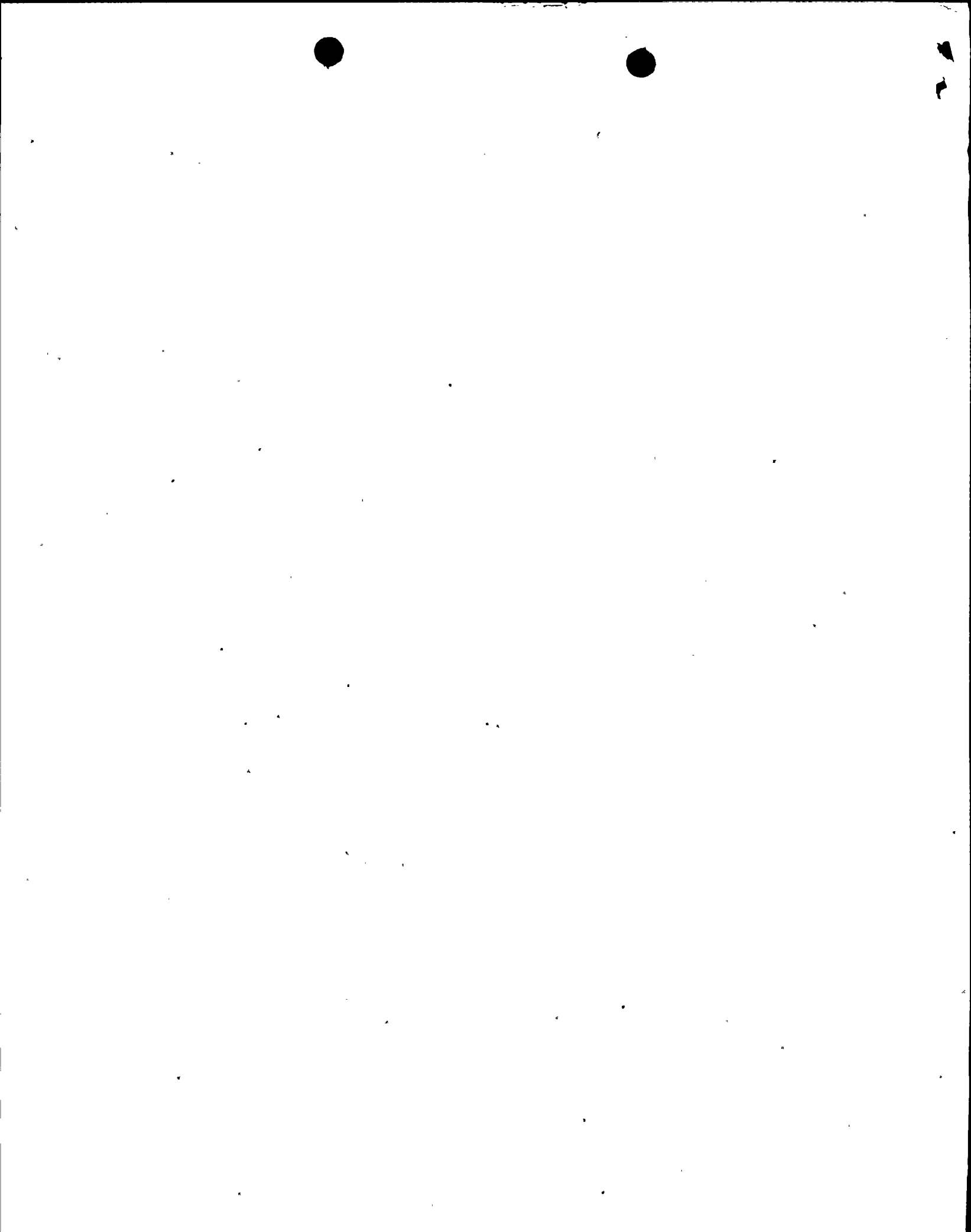
Mailing of Notice	April 28, 1998
Telephone Notification of Individuals	April 28, 1998

The individuals have twenty days from the date of the Order in which to request a hearing.

This Enforcement Notification also serves to inform the Commission that the NRC will exercise discretion per VII.B.6 of the Enforcement Policy on or about April 28, 1998, and not issue a Notice of Violation or propose a civil penalty to Niagra Mohawk Power Corporation for the same violation of 10 CFR Part 26 in that the licensee identified this violation, aggressively investigated the cause and extent of condition, and implemented strong corrective actions. Specifically the staff concluded that discretion under Section VII.B.6 of the Enforcement Policy is warranted because: (1) the corruption of the computer code was

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identified by the licensee after employees in its fitness-for-duty program identified an anomaly in a screen display of the daily list of individuals selected for random testing; (2) the licensee performed an extensive investigation to determine who was responsible for the manipulation of the code and to identify vulnerabilities in its software control; (3) the licensee took prompt and effective corrective actions which included: (a) termination of responsible contract employees; (b) termination of all contracts with the programmer's companies; (c) creation of a project management position with the responsibility for software configuration control and security; (d) communication of the significance of this event with the computer staff and reiterating expectations; and (e) conduct and independent review of the corrective actions by and outside consultant.

It should be noted that the licensee has not been specifically informed of the Exercise of Discretion. The schedule of issuance and notification is:

Mailing of Notice	April 28, 1998
Telephone Notification of Licensee	April 28, 1998

The State of New York will be notified.

Contacts: , T. Reis, OE, 415-3281

J. Lieberman, OE, 415-2741

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**PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL  
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION**

