



16-02

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- ◆ Federal Emergency Management Agency (“FEMA”) director Joe Allbaugh announced on April 23, 2002 that as part of a preliminary process, FEMA is seeking ideas on the design of a first responders grant program and process for providing \$3.5 billion to state and local responders to help them prepare for terrorist attacks. The funding for this program is outlined in President Bush’s FY 2003 budget. **Written comments must be received by May 16, 2002**, and mailed to Rules Docket Clerk, Office of the General Counsel, FEMA, 500 C Street S.W., Washington, D.C., 20472. They may also be faxed to the Office of the General Counsel at 1-202-646-4536, or e-mailed to the OGC at rules@fema.gov. ***We encourage all of our members that have a first response capability to acts of terrorism – particularly those involving weapons of mass destruction and/or nuclear, radiological, biological agents – to send comments to FEMA promoting the resources that are available from your individual company and the private sector response community. Again, if this funding goes to the state and local governments to assist in increasing their response capabilities, response resources would likely be duplicated, and the private sector could find itself competing the public sector for response services. The private sector response community must remain active in promoting the national benefit of the professional resources they maintain, while ensuring that this vital resource is not ignored in homeland defense initiatives. Please forward a copy of any comments you submit to SCAA at e-mail mikes@scaa-spill.org, or via fax to 1-313-849-1623.***
- ◆ Marc Shaye was in attendance at the 2002 Spill of National Significance (“SONS”) Gulf Exercise that took place April 23-25, 2002 in New Orleans, Louisiana. We understand that SCAA MSRC, NRC and Garner Environmental were among the participants in the exercise. Some issues of interest that arose during the exercise:
 - 1.) Jones Act waivers for foreign vessels to help with waste removal activities associated with the SONS exercise. ***This is an issue that has come up in the past (e.g., the Snowe Amendment), and SCAA has long maintained its position that foreign resources should only be called upon after all U.S. resources have been exhausted, and/or until U.S. resources can be mobilized to meet the demands of the incident. SCAA will continue to strongly object to any initiatives of Congress to the contrary.***
 - 2.) Some concerns were raised with regard to the use of dispersants in certain environments (e.g., the potential environmental impact), and the use of *in-situ* burning was also discussed.

- 3.) At some point during the exercise, it was mentioned that mechanical recovery efforts would only capture some 10-15% of the spilled oil. Many of our members know that it is possible to achieve a much higher recovery rate using mechanical recovery devices, depending upon the circumstances surrounding the spill, such as weather, environment, etc.
- 4.) It was mentioned that about \$1.5 million was left in the CERCLA fund, and about \$32 million in the Oil Spill Liability Trust Fund, for the remainder of 2002.

- 5.) As contractors, particularly those that participate in the OSRO Classification Program, most are concerned with being listed in vessel and/or facility response plans ("VRP" or "FRP") without their knowledge or consent. While some believe that a legal argument could be made to the contrary, no contractor should incur any liability whatsoever resulting from their being listed in a FRP or VRP without their knowledge or consent.
- ◆ The Coast Guard has announced its schedule for the upcoming series of technical meetings that are designed to assist contractors with understanding the new OSRO Classification program and guidelines, its concepts, definitions, assumptions, adopted baselines, and the usage of Resource Response Inventory ("RRI") software and data entry. While meetings will take place in Las Vegas and New York on April 30, May 1, and May 2, additional meetings will be held in New Orleans (May 7th, 8th, and 9th, 2002) and Elizabeth City, North Carolina (May 13th, 14th, 15th, and 16th 2002). More information on these meetings can be found on line at www.uscg.mil/hq/nsfcc/nsfweb/NSF/onlinedoc.html, or by calling the National Strike Force Coordination Center at 1-252-331-6000 x 3034, 3030, 3029, or 3004.
 - ◆ The 10th International Oil Spill Technology Seminar will take place September 9-11, 2002 in Norway. The detailed and final program for the event, which is being sponsored by the Norwegian Oil Spill Control Association, will be available by the end of May 2002. More information on the seminar can be found on-line at www.nosca.no/seminar2002.htm, or you can call NOSCA at +47-33-03-48-25.
 - ◆ **Did you know?** With the national concern about terrorism looming in the background, the Pentagon has developed a proposal that would exempt the Department of Defense from some key environmental legislation, including the Clean Air Act, the Clean Water Act, and the Endangered Species Act. We have heard that this proposal is on the "fast track", and is expected to be marked up in the Senate and House during May as a part of the Defense Authorization Bill. National Environmental Groups are now focusing on writing to members of Congress opposing this initiative. (Source: EMEAC) ***We'll keep you abreast of any further developments on this issue as they arise.***
 - ◆ Two metro-Detroit contractors and four family members who run 10 construction, wrecking, and disposal companies have been ordered to pay \$36 million – the largest environmental fine ever imposed in Michigan – for illegally dumping construction waste in three Michigan counties. According to state investigators, the illegal dumping went back a decade. (Source: *Detroit News*)
 - ◆ The Indiana Hazardous Materials & Environmental Safety Conference will take place June 4-5, 2002 at the Valle Vista Conference Center, 755 East Main Street in Greenwood, Indiana. More information on this event, which offers educational opportunities and continuing education credits, can be found on line at www.ifesconf.org or by calling the Indiana Forum for Environmental Safety at 1-317-290-7003.
 - ◆ **Work/Life/Health:** Before firing an employee for an act of negligence, take these steps to determine whether the employee's act was an honest mistake or an act of gross misconduct: (1.) Review the employee's work record for similar mistakes that may have occurred in the past. (2.) Consider the amount of experience the employee has had in performing the task – little or no training could equate to an honest mistake. (3.) Look for signs that the act was intentional or willful. (4.) Investigate whether the employee may have had a motive for his/her actions. (5.) Give the employee a chance to explain to get a better picture of any circumstances surrounding the incident. (Source: *Manager's Legal Bulletin*)
 - ◆ **Quote of the Week:** "It is a very great thing to be able to think as you like; but, after all, an important question remains: what you think." – Matthew Arnold (1822-1888), *Democracy*