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Claims of Inadequate Emergency Planning Mount in the Wake of Recent Natural Disasters — Facility Owners Should Optimize the Interface Between Their Emergency Plans and Those of the Government

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Emergency planning has received increased focus in the last month in the wake of hurricanes Katrina and Rita. Recent media reports have focused on alleged planning failures which are claimed to have exacerbated the hurricanes' impact. Congressional inquiries and recurring media attention are likely to keep emergency planning a "hot button" issue for the near future. In light of these developments, it would be prudent for the owners and operators of industrial facilities to undertake a strategic review of their emergency plans. If your company decides to conduct such a review, we are well positioned to assist you.

Current Congressional inquiries are spearheaded by the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, created by the House on September 15 and chaired by Government Reform Committee Chairman Rep. Tom Davis (R-VA). The Select Committee's first hearing, held on September 22, included testimony by Dr. Max Mayfield, Director of the National Weather Service's National Hurricane Center, and Ret. Brigadier General David Johnson, Director of the National Oceanic and Atmospheric Administration's National Weather Service. The second hearing, held on September 27, featured only former Federal Emergency Management Agency (FEMA) Chief Michael Brown.

Congress plans to address a number of loopholes in federal, state and local emergency planning. One of the most cited planning oversights was the failure of the City of New Orleans to ensure adequate transportation for evacuees. Some 140 school buses were left parked on low ground where they were flooded with storm water and again after the levee failure, making their use impossible in the emergency evacuation.

In addition to the local and state authorities, the federal government (particularly FEMA) has been the subject of severe criticism for its perceived inadequate emergency planning and response to Katrina. As an example of poor planning, reports cite the housing of the Louisiana National Guard in a flood zone. The morning of Hurricane Katrina, 15-foot floodwaters swept into the Guard

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headquarters, cutting their communications and disabling their high-water trucks. For a crucial 24 hours after landfall on August 29, the Guard were preoccupied with protecting their center from the waves and rescuing soldiers who could not swim. The next morning, the Guard had to evacuate their entire headquarters force of 375 guardsmen by boat and helicopter to the Superdome.

Pillsbury Winthrop Shaw Pittman has handled numerous cases before the U.S. Nuclear Regulatory Commission and in the federal courts involving emergency planning issues. As a result, our attorneys have in-depth knowledge of the emergency planning issues that are raised at the federal, state and local level. We can assist in the review and updating of emergency plans, in interacting with agencies such as FEMA, in the evaluation of emergency response exercises, and in the updating of plans to reflect field experience.

The adequacy of the plans is often questioned by state and local government entities; we can help sort out the differences between the facility owners and the various government agencies. One key area sometimes overlooked is the interface between a facility's emergency plan and the state and local plans. For example, under the Emergency Planning and Community Right-To-Know Act, facilities provide their local emergency planning authorities with information about the hazards at the facility. Our experience includes working with both facility owners and local officials to make effective use of the information.

Our handling of emergency planning matters has also provided us with working relationships with experts in virtually every aspect of emergency planning, including those who formulate methods for alerting the public of the existence of an emergency, taking protective measures as warranted, and managing orderly evacuations when necessary.

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