

Committee Probes FEMA's Response to Reports of Toxic Trailers



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House Committee on Government and
House Reform

FEMA's lawyers blocked testing of occupied trailers because once tested, FEMA would have a duty to respond.

Today we begin two days of hearings on the Federal Emergency Management Agency. These hearings are part of a series of hearings in this Committee on how to make government effective again.

In the 1990s, FEMA was a model government agency. But as Hurricane Katrina showed, cronyism, underfunding, and lack of leadership turned FEMA into the most ridiculed agency in the government.

In these hearings, we will ask whether FEMA has learned the lessons of Hurricane Katrina and restored its capacity to protect the public in disasters.

Today we are going to look at a narrow, but telling subject: FEMA trailers that exposed our citizens to dangerous levels of formaldehyde. Then in two weeks, we will look at the broader topic of FEMA's preparedness for the next disaster. I commend my colleague, Ranking Member Davis, for asking for the preparedness hearing and for his bipartisan approach to these issues.

Americans were repulsed by the indifference FEMA dis-

played after Hurricane Katrina. Incredibly, FEMA has adopted the same attitude in addressing reports of high levels of formaldehyde in FEMA trailers.

The nearly 5,000 pages of documents we've reviewed expose an official policy of premeditated ignorance. Senior FEMA officials in Washington didn't want to know what they already knew because they didn't want the moral and legal responsibility to do what they knew had to be done. So they did their best not to know. It's sickening and the exact opposite of what government should be.

My staff has prepared a briefing memo for members that describes in detail what we learned from our review of the FEMA documents. I ask unanimous consent to include the memo and the documents it cites in the hearing record.

The FEMA documents depict a battle between FEMA field staff, who recognized right away that formaldehyde was a serious problem, and FEMA headquarters, particularly FEMA's lawyers, who wanted to pretend it didn't exist.

In March 2006, news articles reported high levels of formaldehyde in FEMA trailers. FEMA field staff urged immediate action, saying: "This needs to be fixed today," "we need to take a proactive approach," and there is an "immediate need" for a plan of action.

But when the issue reached FEMA's lawyers, they blocked testing of occupied trailers. One FEMA attorney explained: "Do not initiate any testing until we give the OK. ...Once you get results...the

clock is running on our duty to respond to them."

Another FEMA official wrote: the Office of General Counsel has advised that "we do not do testing" because it "would imply FEMA's ownership of this issue."

Early in the process, due to the perseverance of a pregnant mother with a four-month-old child, FEMA did test one occupied trailer. The results showed that their trailer had formaldehyde levels 75 times higher than the maximum workplace exposure level recommended by the National Institute for Occupational Safety and Health.

The mother evacuated the trailer. FEMA stopped testing occupied trailers. And top officials issued a statement that said: "FEMA and industry experts have evaluated the small number of cases where odors of formaldehyde have been reported, and we are confident that there is no ongoing risk."

In early July 2006, FEMA officials worked with EPA and CDC to develop a testing protocol for unoccupied trailers that would "determine formaldehyde concentrations emanating from the trailer...under living conditions." EPA officials advised FEMA that "the levels we find after testing may well be more than 100 times higher than the health base level."

After receiving this report, FEMA responded by changing the testing protocols. Instead of simulating actual living conditions — which would show high levels of formaldehyde — FEMA directed that the trailers be tested with their windows open, their ventilation fans

FEMA'S TOXIC TRAILERS

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running, and their air conditioning units operating 24 hours per day.

A leading treatise on diagnosing indoor air quality calls testing for formaldehyde under these conditions "meaningless."

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FEMA repeatedly received

complaints from occupants about high formaldehyde levels, including at least two complaints involving the death of occupants. But the agency brushed the complaints aside. Over 100,000 families have lived in FEMA trailers and manufactured homes. Yet the leadership of FEMA refused to take even the most basic steps to protect them from toxic formaldehyde fumes.

"It is impossible to read the FEMA documents and not be infuriated."

Yesterday, FEMA finally admitted it made a mistake. It announced it would begin a program to test occupied trailers for dangerous levels of formaldehyde. This is exactly what FEMA's field staff urged over a year ago. But it took this hearing — and the prospect that Director Paulison would face tough questions— to spur FEMA to act.

FEMA exists to serve the public. But it acts as though protecting Director Paulison from embarrassment is more important than protecting the

health of the victims of Hurricane Katrina.

It is impossible to read the FEMA documents and not be infuriated. Americans don't mind paying their taxes if they get a government that works. But when that bargain is broken — and tax dollars are squandered and health jeopardized — frustration rises and trust in government erodes.

At our last hearing with Surgeon General Carmona, I said that good oversight

FEMA's Management and Oversight of Payments for Insurance Company Services Should Be Improved (report highlights)

GAO

Extraordinary recent flood events raise serious questions about the solvency of the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Agency (FEMA). The NFIP is largely implemented by private insurance companies that sell and service policies and adjust claims under the Write Your Own (WYO) Program. This report, prepared under the authority of the Comptroller General, examines (1) how much FEMA paid the WYO companies in recent years for operating costs and how FEMA determined payment amounts; (2) how FEMA's approach to determining operating costs assures that payments are reasonable estimates of companies' expenses; and (3) how FEMA assures that financial and management controls are in place for the WYO program and operate as intended. To do these assessments, GAO interviewed FEMA and insurance officials, and analyzed statutes, regulations, payment data, methodologies, and audits of WYO companies.

What GAO Recommends

GAO recommends that FEMA take steps to ensure that it has a reasonable estimate of actual expenses WYO companies incur to help determine payments for services and that

financial audits are performed. The Department of Homeland Security reviewed a draft of this report and generally agreed with our recommendations.

FEMA's payments to WYO insurance companies for operating costs ranged from more than a third to almost two-thirds of the total premiums paid by policyholders to the NFIP for fiscal years 2004 through 2006. In fiscal years 2005 and 2006, larger payments to WYO insurance companies were the result of settling an unprecedented number and dollar amount of claims for damages resulting from major hurricanes and flood events including Hurricane Katrina. To determine the amount of these payments, FEMA negotiated payment approaches with insurance industry representatives when it established the current WYO program in 1983 based on industry averages for operating expenses for other lines of insurance (such as homeowners, commercial, and fire), past practice, and discussion.

The approach FEMA uses to determine operating costs for WYO insurance companies, rooted in policies negotiated and established about 25 years ago, cannot ensure that payments are based on

reasonable estimates of actual expenses because actual expenses incurred by the companies for their services to the NFIP are not considered. Although it has authority to do so, FEMA does not collect data on actual WYO flood insurance expenses that could provide a basis for insuring that the WYO payments are based on a reasonable estimate of actual expenses. FEMA officials said that they have not asked WYO insurance companies to provide expense information due to concerns that the approach would increase FEMA's administrative costs and cause a decline in WYO program participation. However, some data on expenses WYO insurance companies allocate to flood insurance are available. FEMA officials said that they cannot use this information due to reporting inconsistencies. Also, there is some precedent in two similar public-private insurance partnerships for collecting actual expense information. FEMA's decision to rely on long-standing practices does not meet federal internal control standards that agencies be held accountable for, among other things, stewardship of government resources.

Biennial financial statement audits—FEMA's primary mechanism to provide assurance that it receives complete and accurate financial management information from the WYO insurance companies—were not performed

consistently as required by regulation. FEMA regulations require each participating company to arrange and pay for these audits by independent certified public accounting firms. However, many WYO insurance companies did not comply with the schedule in recent years. For example, for fiscal years 2005 and 2006, 5 of 94 participating companies had biennial financial statement audits performed. FEMA officials said they allowed some companies to delay having the audits done because they were in the process of contracting with new subcontractors to perform their financial reporting responsibilities. Nonetheless, without the required biennial audits, FEMA lacks an appropriate internal control mechanism for effective program oversight.

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