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Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, March 31, 2023

Justice Department and EPA File Complaint Against Norfolk Southern for Unlawful Discharge of Pollutants and Hazardous Substances in East Palestine Derailment

Today, on behalf of the U.S. Environmental Protection Agency (EPA) and in coordination with the U.S. Attorney's Office for the Northern District of Ohio, the Justice Department's Environment and Natural Resources Division announced a complaint against Norfolk Southern Corporation and Norfolk Southern Railway Company (Norfolk Southern) related to the Feb. 3, derailment in East Palestine, Ohio. The complaint seeks penalties and injunctive relief for the unlawful discharge of pollutants, oil, and hazardous substances under the Clean Water Act, and declaratory judgment on liability for past and future costs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

This action follows EPA's issuance on Feb. 21, 2023 of a Unilateral Administrative Order under CERCLA to Norfolk Southern Railway Company requiring the company to develop and implement plans to address contamination and pay EPA's response costs associated with the order.

"When a Norfolk Southern train derailed last month in East Palestine, Ohio, it released toxins into the air, soil, and water, endangering the health and safety of people in surrounding communities," said Attorney General Merrick B. Garland. "With this complaint, the Justice Department and the EPA are acting to pursue justice for the residents of East Palestine and ensure that Norfolk Southern carries the financial burden for the harm it has caused and continues to inflict on the community."

"From the very beginning, I pledged to the people of East Palestine that EPA would hold Norfolk Southern fully accountable for jeopardizing the community's health and safety," said EPA Administrator Michael S. Regan. "No community should have to go through what East Palestine residents have faced. With today's action, we are once more delivering on our commitment to ensure Norfolk Southern cleans up the mess they made and pays for the damage they have inflicted as we work to ensure this community can feel safe at home again."

"Last month, the East Palestine community was upended by a horrific train derailment. By filing this complaint today, we are demanding accountability from Norfolk Southern for the harm this event has caused," said Assistant Attorney General Todd Kim of the Justice Department's Environment and Natural Resources Division. "We will tirelessly pursue justice for the people living in and near East Palestine, who like all Americans deserve clean air, clean water, and a safe community for their children."

"The United States Attorney's Office stands with our district's residents in pursuing accountability and justice in both the immediate and distant future, as we work together to deal with the damage and destruction this disaster has caused," said First Assistant U.S. Attorney Michelle Baepler for the Northern District of Ohio.

On Feb. 3, 2023, a Norfolk Southern train carrying hazardous materials, including hazardous substances, pollutants, and oil derailed in East Palestine, Ohio. The derailment resulted in a pile of burning rail cars, and contamination of the community's air, land, and water. Residents living near the derailment site were evacuated. Based on information Norfolk Southern provided, the hazardous materials contained in these cars included vinyl chloride, ethylene glycol

monobutyl ether, ethylhexyl acrylate, butyl acrylate, isobutylene, and benzene residue. Within hours of the derailment, EPA and its federal and state partners began responding to the incident, including providing on-the-ground assistance to first responders and conducting robust testing in and around East Palestine.

The fire caused by the derailment burned for several days. On Feb. 5, monitoring indicated that the temperature in one of the rail cars containing vinyl chloride was rising. To prevent an explosion, Norfolk Southern vented and burned five rail cars containing vinyl chloride in a flare trench the following day, resulting in additional releases.

Since the EPA's issuance of the Unilateral Administrative Order to Norfolk Southern Railway Company, the EPA has been overseeing that company's work under the order. Approximately 9.2 million gallons of liquid wastewater, and an estimated 12,932 tons of contaminated soils and solids have been shipped off-site.

The EPA and other federal agencies continue to investigate the circumstances leading up to and following the derailment. The United States will pursue further actions as warranted in the future as its investigatory work proceeds.

*This release has been updated to reflect the correct date, March 31, 2023.

Attachment(s):

[Download Norfolk Southern Complaint](#)

Topic(s):

Environmental Justice

Environment

Component(s):

[Environment and Natural Resources Division](#)

[Office of the Attorney General](#)

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