



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Norfolk Southern Corporation
c/o J. Steven Stewart
650 W. Peachtree Street NW
Atlanta, Georgia 30308

Norfolk Southern Railway Company
c/o Corporation Service Company
3366 Riverside Drive, Suite 103
Upper Arlington, Ohio 43221

Re: Request for Information Pursuant to Section 104(e) of CERCLA and Section 308(a) of the Clean Water Act for Norfolk Southern Railway Company and Norfolk Southern Corporation

Dear Norfolk Southern Corporation and Norfolk Southern Railway Company:

The U.S. Environmental Protection Agency (“EPA”) is currently investigating the source, extent, and nature of releases of hazardous substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, including but not limited to the release of hazardous substances, pollutants and contaminants, which began on or about February 3, 2023, when eastbound Norfolk Southern Railway (NS) general merchandise freight train 32N derailed 38 rail cars on main track 1 of NS Fort Wayne Line of the Keystone Division in East Palestine, Ohio. EPA is also investigating the source, extent, and nature of the discharge of oil and hazardous substances into or upon the navigable waters of the United States arising from this incident pursuant to the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq.

Pursuant to the authority of Section 104(e) of the CERCLA, 42 U.S.C. § 9604(e) and Section 308(a) of the Clean Water Act (CWA), 33 U.S.C. § 1318(a), you are hereby requested to respond to the enclosed Information Request on behalf of Norfolk Southern Railway Company and/or Norfolk Southern Corporation (collectively “NS”).

Compliance with the Information Request is mandatory. Failure to respond fully and truthfully to each and every request within 21 days of receipt of this letter, or to adequately justify such failure to respond or request an extension, can result in enforcement action by EPA and the imposition of penalties of up to \$67,544 under Section 104(e) of CERCLA and/or up to \$64,618

under Section 309(d) of the CWA, 33 U.S.C. § 1319(d) for each day of noncompliance. Noncompliance is considered by EPA to be not only failure to respond to the Information Request but also failure to respond completely and truthfully to each request. Please be further advised that knowingly and willfully making false, fictitious, or fraudulent statements or representations may subject you to criminal fines or up to five years of imprisonment or both under 18 U.S.C. § 1001.

EPA has the authority to use the information requested herein in an administrative, civil, or criminal action. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.

Any response should be submitted to EPA electronically, to the extent possible and sent to entzminger.james@epa.gov. The subject line of all email correspondence must include the name: Norfolk Southern. All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. If your response is too large to be submitted over email or contains Confidential Business Information, please inform entzminger.james@epa.gov of that issue and we will send you a secure link to a website that will allow you to upload your response. If electronic submittal is not possible, the submissions must be sent to the following addresses:

James Entzminger
Chemical Emergency Preparedness
and Prevention Section (SE-5J)
United States Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604

EPA strongly encourages you to give this matter your immediate attention and to respond to this Information Request within the time specified above.

Please direct any questions you may have regarding this Information Request to James Entzminger at (312) 886-4062 or entzminger.james@epa.gov.

Thank you for your cooperation in this matter.

Sincerely,

Jason El-Zein

Digitally signed by Jason
El-Zein
Date: 2023.04.18 14:13:32
-04'00'

Jason El-Zein, Manager
Emergency Response Branch 1
Superfund & Emergency
Management Division

Enclosures (3)

1. Information Request Definitions
2. Information Request Instructions
3. Information Request

cc: Edward O'Callaghan (electronic)
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DEFINITIONS

For the purpose of the Instructions and the Information Request set forth herein, the following definitions shall apply:

1. The terms “you,” and “NS” shall mean the organizations or entities identified in the cover letter, specifically including Norfolk Southern Corporation and Norfolk Southern Railway Company and their officers, managers, employees, contractors, trustees, and agents.
2. The term “person” as used herein, in the plural as well as the singular, shall mean any natural person, firm, contractor, corporation, partnership, trust or governmental entity, unless the context indicates otherwise.
3. The term “hazardous material” includes oil, petroleum products, hazardous substances, hazardous wastes, fuel additives, pollutants, and contaminants.
4. The term “hazardous substance” shall include all substances encompassed within the definitions in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and/or Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14), including mixtures of hazardous substances and petroleum products.
5. The term “hazardous waste” shall have the same meaning as that contained in the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6903 and 6921.
6. The terms “furnish,” “describe,” or “indicate” shall mean turning over to EPA either original or duplicate copies of the requested information in the possession, custody, or control of NS. Where specific information has not been memorialized in any document but is nonetheless responsive to a request, you must respond to the request with a written response. If such requested information is not in your possession, custody, or control, then indicate where such information or documents may be obtained.
7. The term “release” means any spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any hazardous material, hazardous substance, pollutant or contaminant.
8. The term “discharge” shall have the same meaning as that contained in the CWA, 33 U.S.C. § 1321(a)(2), and shall include “discharge of a pollutant” as that term is defined in CWA, 33 U.S.C. § 1362(12).
9. The terms “and” as well as “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
10. The terms “transport” or “transportation” mean the movement of a hazardous substance by any mode, including pipeline, and in the case of a hazardous substance which has been accepted for transportation by a common or contract carrier, the terms “transport” or

“transportation” shall include any stoppage in transit which is temporary, incidental to the transportation movement, and at the ordinary operating convenience of a common or contract carrier, and any such stoppage shall be considered as a continuity of movement and not as the storage of a hazardous substance.

11. The terms “pollutant” or “contaminant” shall have the same definition as that contained in Section 101(33) of CERCLA, 42 U.S.C. § 9601(33), and includes any mixtures of such pollutants and contaminants with any other substances.
12. The term “Facility” means any structure, installation, equipment, ditch, storage container, rolling stock, or any site or area where a hazardous material, hazardous substance, pollutant or contaminant has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer products in consumer use or vessel; and any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land.
13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, the CWA, and EPA’s regulations at 40 C.F.R. Part 300 or 40 C.F.R. Parts 260-280, in which case the statutory or regulatory definitions shall apply.
14. “Rail cars” shall mean boxcars, hoppers, flatcars, tankers, gondolas, coil cars, refrigerator cars, tank cars, and specialty cars.

INSTRUCTIONS

1. A separate response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the number in the Information Request to which it corresponds.
3. In answering each request, identify all contributing sources of information.
4. If information not known or not available to NS as of the date of submission of its response should later become known or available, NS must supplement its response to EPA.
5. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is inaccurate, false, or misrepresents the truth, you must notify the EPA of this fact immediately and provide a corrected response within 14 calendar days of when you find the information is inaccurate, false, or misrepresents the truth.
6. Please be advised that the failure to respond accurately, or the submission of false information, may subject you to administrative, civil, or criminal enforcement that could include penalties, fines, or imprisonment under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001.
7. You must submit all required information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete.

8. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. Please read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and the provisions of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), before asserting a business confidentiality claim.

INFORMATION REQUEST

1. Identify all persons consulted in the preparation of the answers to this request.
2. Identify all documentation consulted, examined, or referred to in the preparation of the answers to this request and provide copies of all such documents.

Corporate Information

3. Provide copies of all casualty, liability and/or pollution insurance policies, and any other insurance contracts providing NS with liability insurance relating to the Facility. Please specify the insurer, policy, effective dates and per occurrence policy limits for each policy in effect from February 3, 2023, through the present.
4. To the extent not provided in Question 3 above, provide copies of all insurance policies that may potentially provide NS with insurance for bodily injury, property damage and/or environmental contamination in connection with the Facility and/or NS's business operations. Include, without limitation, all comprehensive general liability, primary, excess, and umbrella policies.
5. To the extent not identified in Questions 3 or 4 above, provide all other evidence of casualty, liability and/or pollution insurance issued to NS for the period being investigated as identified in Question 3.
6. If there are any such policies from Questions 3, 4, or 5 above of which you are aware but neither possess copies, nor are able to obtain copies, identify each such policy to the best of your ability by identifying:
 - a. The name and address of each insurer and of the insured;
 - b. The type of policy and policy numbers;
 - c. The per occurrence policy limits of each policy; and
 - d. The effective dates for each policy.
7. Please describe any claims made related to the train derailment and the subsequent emergency and time-critical response activities.

Discharges and Releases

8. Describe in detail the chain of events that produced the release of hazardous substances, pollutants and contaminants which occurred on or around February 3, 2023, through February 7, 2023, including but not limited to a description of how each of the rail cars derailed and/or began to burn, the impacts to rail cars that did not derail, and the actions taken by NS and emergency responders in response to the derailment.
9. Provide the names and describe the duties of NS' employees or contractors who operated, inspected, and serviced the eastbound Norfolk Southern Railway general merchandise freight

train 32N (Train 32N) that derailed 38 rail cars on main track 1 of NS Fort Wayne Line of the Keystone Division in East Palestine, Ohio, on February 3, 2023. For purposes of this question and all questions below, Train 32N is comprised of 2 head-end locomotives, 149 rail cars, and 1 distributed power locomotive as described by the National Transportation Safety Board in its reports related to the February 3, 2023, derailment.

10. For all contractor employees listed in response to your answer to question 9 above, provide the name and contact information of their employers.
11. Provide names and describe the duties of any and all personnel from leasing companies, third party logistic companies and shippers that managed, inspected, or otherwise handled any of Train 32N's 149 rail cars.
12. Identify the acts or omissions of any persons, other than your employees, contractors or agents that may have caused the release or threat of release of hazardous substances, pollutants or contaminants and damages resulting therefrom related to the derailment of Train 32N.
13. Identify, by rail car, each hazardous material in each derailed or damaged rail car and as applicable provide its Chemical Abstract Service number.
14. For each of Train 32N's rail cars that derailed or were damaged by the derailment and any rail cars stored in the vicinity of NS Fort Wayne Line of the Keystone Division in East Palestine, provide copies of any and all documents describing the contents of those rail cars including, but not limited to:
 - (a) consists;
 - (b) manifests;
 - (c) Material Safety Data Sheet (MSDS);
 - (d) Safety Data Sheet (SDS);
 - (e) representations, markings, and certifications required under 49 C.F.R. Part 171 for hazardous materials;
 - (f) hazardous materials placards;
 - (g) written assurances from the shippers of record that the packages remained in condition for shipment until it was received by NS; and
 - (h) any information related to hazardous waste required under 49 C.F.R. §§ 171.3, 171.8 and 172.205.

15. Did you ever use, purchase, store, treat, dispose, or otherwise handle any hazardous substances or materials that were transported by Train 32N? If the answer to the preceding question is anything but an unqualified “no,” identify:

(a) The chemical composition, characteristics, and physical state (e.g., solid, liquid) of each hazardous substance;

(b) Who supplied you with such hazardous substances;

(c) How such hazardous substances were used, purchased, generated, stored, treated, disposed or otherwise handled by you;

(d) When such hazardous substances were used, purchased, generated, stored, treated, disposed or otherwise handled by you;

(e) Where such hazardous substances were used, purchased, generated, stored, treated, disposed or otherwise handled by you;

(f) The quantity of such hazardous substances used, purchased, generated, stored, disposed or otherwise handled by you; and

(g) The rail car identification number related to the hazardous substances described in your response to this question.

16. Provide a description of the order, placement, and/or buffering of the rail cars carrying hazardous materials on Train 32N that derailed 38 rail cars on main track 1 of NS Fort Wayne Line of the Keystone Division in East Palestine, Ohio on February 3, 2023.

17. Identify all persons having knowledge or information about the generation, transportation, treatment, disposal or other handling of hazardous materials on Train 32N by you, your contractors or by prior owners and/or operators.

18. Identify all persons having knowledge or information about the maintenance and inspection of Train 32N by you, your contractors, current owners of specific rail cars, and prior owners and/or operators.

19. How much of each hazardous substance, pollutant or contaminant was released from each derailed rail car as a result of the derailment? Describe your method or source of information in calculating the quantity released and provide the calculations. Please identify the information by rail car identification number.

20. Describe the environment (i.e., air, water, soil, groundwater) on or to which the hazardous material, hazardous substance, pollutant, or contaminant was released and how much was released to each. Describe your method or source of information in calculating the quantity and provide the calculations.

21. Did the material contained in or the derailed rail cars themselves react with any substance or combust to cause a by-product? If so, explain and provide the calculations to show the reaction and quantity of each by-product released.
22. What was the concentration of the hazardous material in each rail car that was released during the derailment? Describe your method or source of information in determining the concentration.
23. Provide the results of any and all analyses, including but not limited to results of any sampling that was conducted regarding all releases related to the derailment including the controlled vent and burn.
24. Describe in detail the actions taken by your employees and/or anyone else regarding the emergency response to this release, including any and all chemicals used, the handling or clean-up of the substance, including transportation and destination.
25. Specifically in relation to the February 6, 2023, controlled vent and burn of the 5 rail cars containing vinyl chloride, provide the temperature records of each of the 5 rail cars between the time of the derailment and the time of the detonation.
26. Describe the decision-making process by NS or any governmental agency or department leading to the venting, detonation and controlled burn of the 5 rail cars containing vinyl chloride, including any air modeling. For information provided verbally or in writing by NS to any governmental agency or department, specify:
 - a. The date and time the information was provided;
 - b. A description of the information provided; and
 - c. The name, affiliation and contact information of the person who received the information.
27. Provide copies of all reports and other documentation prepared for or by NS or any governmental agency or department relating to the decision-making process described in your response to request 26 above.
28. Describe the venting, detonation and controlled burn of the 5 rail cars containing vinyl chloride, including but not limited to information regarding a potential boiling liquid expanding vapor explosion (BLEVE) of any rail car(s), the possibility of removing vinyl chloride from one or more rail cars prior to a BLEVE or prior to the controlled burn, the method of worker approach to the 5 rail cars, the construction of a trench to capture vented vinyl chloride (including but not limited to the size of the trench), and the materials and equipment used to detonate the vinyl chloride.
29. Provide the temperature ranges of all fires associated with the derailment from February 3, 2023, through February 8, 2023, by hour or shortest recorded timeframes along with any related reports and documents.

30. Provide all documentation related to the supplier, amount, and chemical makeup of the firefighting suppressants used at the Facility.
31. To the best of your knowledge, is there an ongoing release from the Facility to the environment? If your answer is yes, provide information in support of the same. If the answer is no, what was the duration of the release that has ended? Explain how you determined the onset and end of the release and provide copies of documents and all information you relied on to make your determination.
32. Describe the weather conditions at the time of the initial release and during the controlled vent and burn including the temperature, humidity, wind speed and direction, precipitation, sunny/cloudy, and barometric conditions.
33. Were any rail cars pressurized just prior to the time hazardous materials released from the rail car? If so, what is the capacity of the system, and what is the normal pressure in pounds per square inch?
34. Provide your best estimate of the amount of hazardous materials in each of the rail cars at the time the rail cars were moved from the Facility.
35. Provide by rail car identification number the name and current address of the owner(s) and lessor(s) of each of Train 32N's 149 rail cars and three locomotives.
36. Provide information about NS Fort Wayne Line of the Keystone Division in East Palestine, Ohio, and surrounding area, including but not limited to the following:
 - (a) Property boundaries, including a written legal description;
 - (b) Location of underground utilities (telephone, electrical, sewer, water main, etc.);
 - (c) Surface structures (e.g., buildings, rail car storage areas, rail lines), including locations of the train control system and any defect detectors;
 - (d) A map of the Facility indicating the features referenced in (a)-(c) before the release that occurred February 3, 2023; and
 - (e) Copies of any documents you have about contamination which was present prior to the derailment.
37. Provide the number of homes evacuated, persons medically treated, hospitalizations, and/or deaths reported to be associated with this release.
38. Describe in detail any known harm to fish and wildlife or agriculture and livestock (i.e., fish kills or vegetation damage) caused by the release and related response activity.

39. On a map, show the coordinates (latitude and longitude) of the Facility, and both the start and end points of discharges from each rail car at the Facility into ditches, runs, rivers and streams. Identify by name all ditches, runs, rivers, and streams. Also include the names of all downstream receiving waters that the release and discharge affected. Additionally, list all downstream receiving water bodies up to and including the first major river or lake, regardless of whether or not the release and discharge affected the water bodies.
40. State the amount of hazardous materials, hazardous substances, pollutants and contaminants that discharged into the waterways identified in response to request 39, above, in pounds and gallons. Provide any calculations or other information used to determine the amount discharged into the waterway. If the release was an oil and hazardous substance mixture, provide the total amount of the mixture, in pounds or gallons, that was discharged into the waterway.
41. Provide copies of all reports you made to federal, state or local entities regarding the discharge.
42. Report the date and time the discharge began, the date and time the discharge ceased, how long the material from the Facility remained in the watercourse, as well as on the shoreline or banks, and when all material was removed from the surface water, sediment and adjoining shoreline.
43. Describe the general surface/rainwater run-off direction and pathway from the Facility to the discharge location. Provide a map or sketch showing the location of the discharge and the distance the discharge traveled. State the distance traveled in feet.
44. Provide photographs of the discharged material in the waterways and the waterways both before and after cleanup, if available.

Notification:

45. Provide the date and time when any of NS' employees first identified a derailment on or around February 3, 2023. Identify the employees who first identified the derailment by name and job description.
46. Describe any notifications or warning signals from hot bearing detectors regarding Train 32N on or around February 3, 2023, and provide related documentation.
47. Provide both the dates and times when NS first knew that (i) any material and (ii) hazardous substances were being released from the rail car(s) on or around February 3, 2023.
48. Provide both the date and time when NS knew that a reportable quantity (RQ) of any CERCLA or CWA hazardous substance was released from the rail car(s) on or around February 3, 2023, and on or around February 6, 2023.

49. If the time of knowledge of the release and time of knowledge of an RQ released is not the same, explain what actions your employees took in determining that an RQ was released and provide any related documentation related to the determination.
50. Did NS' employees operating or otherwise present on Train 32N at the time of the derailment contact the Cleveland East train dispatcher on or around February 3, 2023, regarding the derailment? If so, provide the name of the individual that contacted the dispatcher, the date and time of the contact, and the reason for contact.
51. Describe in detail the actions taken by NS' employees that were on Train 32N between the time it derailed, and the time NS notify the National Response Center regarding the release(s) that occurred on or around February 3, 2023.
52. Did NS notify the Ohio State Emergency Response Commission regarding the release(s) that occurred on or around February 3, 2023? If so, provide the name of the individual that provided the notification, the person notified, and the date and time of each call.
53. Did NS notify the Columbiana County Local Emergency Planning Committee regarding the release(s) that occurred on or around February 3, 2023? If so, provide the name of the individual that provided the notification, the agency notified, and the date and time of each call.
54. Did NS notify the emergency operator or 911 regarding the release(s) that occurred on or around February 3, 2023? If so, provide the name of the individual that provided the notification, the agency notified, and the date and time of each call.
55. Did NS provide a written follow-up emergency notice to the Ohio State Emergency Response Commission? If so, provide documentation to support your claim.
56. Did NS provide a written follow-up emergency notice to the Columbiana County Local Emergency Planning Committee? If so, provide documentation to support your claim.

Carrier Information

57. Provide all Rail Transportation Services Agreements between NS and their customers related to each of Train 32N's 149 rail cars.
58. Provide all Contract Carrier Transportation Agreements between the shipper of any product, waste or other material transported in each of Train 32N's 149 rail cars and NS.
59. Provide the bill(s) of lading and shipper of record information for each of the rail cars that derailed or were otherwise damaged by the derailment and all related fires.
60. Provide NS' operating instructions for handling and transporting hazardous materials in general and provide specific instructions related to the hazardous materials being transported by NS on Train 32 N.

61. Provide a description of NS' procedures for determining the location of hazardous material rail cars in a train.
62. Provide a description of NS' procedures to reduce the risk of derailment and/or release of hazardous materials and their commingling should a release occur during derailment.
63. Provide a copy of Norfolk Southern Railroad Emergency Response Planning Guide and any and all emergency plans, procedures, programs and protocols developed for or by NS related to the Emergency Response Planning Guide, including but not limited to: Norfolk Southern's Operation Awareness and Emergency Response (TRANSCAER) program and all TRANSCAER related training material and exercises.
64. Provide documentation regarding the training of your employees on the procedures for notification of accidental releases.
65. Describe in detail the measures taken by the crew of Train 32N related to the safety and security of the rail cars, hazardous materials, contents of the rail cars, the railroad infrastructure and the locomotives.
66. Provide documentation of NS' procedures and systems for safety and security for shipments of hazardous materials from 2018 to the present.
67. Provide all documents related to crew optimization procedures and protocols implemented by NS in the last five years, including but not limited to documents describing Precision Scheduled Railroading.
68. Provide all documents related to the safety and security interest in handling of rail cars, contents of rail cars and the railroad infrastructure implemented by NS in the last five years, including corporate minutes and reports that contain discussions on or refer to any action or situation related to safety and security.
69. Provide a list of any and all training provided to firefighters regarding hazardous materials training, including but not limited to the East Palestine Fire Department.
70. Provide all documents related to citations, recommendations, and inspection reports by the Federal Railroad Administration related to NS' operations over the past five years. Summarize any identified defects and NS' resolution of the same.
71. Provide documentation of any penalties assessed against NS by local, state or federal agencies over the past five years.