



Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Sam Graves  
Chairman

Jack Ruddy, Staff Director

Rick Larsen  
Ranking Member

Katherine W. Dedrick, Democratic Staff Director

February 27, 2023

The Honorable Michael S. Regan  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Regan:

On February 3, 2023, at approximately 8:54 p.m. ET, a Norfolk Southern freight train derailed in East Palestine, Ohio.<sup>1</sup> Agencies involved in the Federal response include the National Transportation Safety Board (NTSB), Federal Railroad Administration (FRA), Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Environmental Protection Agency (EPA).<sup>2</sup> NTSB initiated an investigation into the cause of the incident, and EPA began air, soil, and water quality monitoring in conjunction with state environmental officials.<sup>3</sup> In the weeks following the accident, significant concerns remain regarding the Biden Administration's response to this event and whether appropriate actions have been taken by the federal agencies to protect the community and the environment. The Committee holds jurisdiction over the safe function of our Nation's railroads, the transportation of hazardous materials by railroad, and portions of the *Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)*.<sup>4</sup> Accordingly, the Committee requests information relating to the EPA's actions and decision-making following this derailment.

According to reports, a total of 38 cars derailed in the accident, with 11 cars carrying hazardous materials.<sup>5</sup> The derailed cars carried toxic chemicals, including vinyl chloride, butyl

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<sup>1</sup> See Press Release, NTSB, *NTSB Issues Investigative Update on Ohio Train Derailment*, (Feb. 14, 2023), <https://www.nts.gov/news/press-releases/Pages/NR20230214.aspx>.

<sup>2</sup> See Press Release, NTSB, *NTSB Issues Investigative Update on Ohio Train Derailment*, (Feb. 14, 2023), <https://www.nts.gov/news/press-releases/Pages/NR20230214.aspx>; see also EPA, *On-Scene Coordinator, East Palestine Train Derailment*, available at [https://response.epa.gov/site/site\\_profile.aspx?site\\_id=15933](https://response.epa.gov/site/site_profile.aspx?site_id=15933).

<sup>3</sup> *Id.*

<sup>4</sup> See RULES OF THE HOUSE OF REPRESENTATIVES, Rule X, clause 1(r).

<sup>5</sup> See Press Release, NTSB, *NTSB Issues Investigative Update on Ohio Train Derailment*, (Feb. 14, 2023), <https://www.nts.gov/news/press-releases/Pages/NR20230214.aspx>; see also EPA, *On-Scene Coordinator, East Palestine Train Derailment*, available at [https://response.epa.gov/site/site\\_profile.aspx?site\\_id=15933](https://response.epa.gov/site/site_profile.aspx?site_id=15933).

acrylate, ethyl hexyl acrylate, and ethylene glycol monobutyl ether, which can harm humans and animals when released.<sup>6</sup> Evacuation orders were immediately issued by the governor of Ohio for residents within a one-mile radius of the derailment.<sup>7</sup>

A decision was made to conduct a controlled vent and burn of the vinyl chloride on February 6, 2023 to alleviate the potential risk of an explosion.<sup>8</sup> The controlled burn resulted in a ball of fire and large plume of black smoke.<sup>9</sup> The governor of Ohio, along with local, state, and Federal officials, announced the evacuation orders were lifted on February 8, 2023, allowing residents to return to their homes.<sup>10</sup> While EPA continues monitoring environmental quality, it announced that the air and water inside the evacuation zone are safe.<sup>11</sup>

Despite such claims by the EPA, East Palestine residents continue to report noxious odors, pollutants in the water and soil, and remain concerned about the safety of returning to normal living and the long-term impacts of the chemicals in the environment.<sup>12</sup> Further, questions have arisen regarding the decision to conduct the controlled burn of hazardous chemicals versus employing other, potentially safer alternatives.<sup>13</sup>

Accordingly, we seek clarification about the decision-making process employed by the EPA to address the accident and resulting damages. EPA remains active in addressing the effects of the train derailment, including a visit from you on February 16, 2023.<sup>14</sup> As response efforts

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<sup>6</sup> See *Train32N – East Palestine Commodity Spreadsheet*, (last visited Feb. 16, 2023), available at <https://response.epa.gov/sites/15933/files/TRAIN%2032N%20-%20EAST%20PALESTINE%20-%20derail%20list%20Norfolk%20Southern%20document.pdf> (providing the chart NTSB referenced for a list of what the derailed cars were carrying).

<sup>7</sup> See “*Catastrophic*” blast possible at Ohio train derailment site, officials warn, CBS NEWS, (Feb. 6, 2023), available at <https://www.cbsnews.com/news/train-derailment-east-palestine-ohio-evacuation-order/>; see also Press Release, OFFICE OF THE GOVERNOR, STATE OF OHIO, *East Palestine Update: Evacuation Area Extended, Controlled Release of Rail Car Contents Planned for 3:30 p.m.*, (Feb. 6, 2023), available at <https://www.cbsnews.com/news/train-derailment-east-palestine-ohio-evacuation-order/>.

<sup>8</sup> Peter Charalambous, *Ohio train derailment: Controlled burn of toxic chemicals went ‘as planned,’ PA gov says*, ABC NEWS, (Feb. 6, 2023), available at <https://abcnews.go.com/US/train-derails-flames-ohio-causes-half-town-evacuate/story?id=96892580>.

<sup>9</sup> *Id.*

<sup>10</sup> *Evacuation order lifted for residents near Ohio train derailment*, CBS NEWS, (Feb. 9, 2023), available at <https://www.cbsnews.com/news/evacuation-order-lifted-east-palestine-ohio-train-derailment/>; see also, Press Release, OFFICE OF THE GOVERNOR, STATE OF OHIO, *East Palestine Update: Residents Can Safely Return Home*, (Feb. 8, 2023), available at <https://governor.ohio.gov/media/news-and-media/East-Palestine-Update-Residents-Can-Safely-Return-Home-02082023>.

<sup>11</sup> See EPA, *On-Scene Coordinator, East Palestine Train Derailment*, available at [https://response.epa.gov/site/site\\_profile.aspx?site\\_id=15933](https://response.epa.gov/site/site_profile.aspx?site_id=15933); see also News Release, EPA, *Statement from Regional Administrator Debra Shore on the East Palestine Train Derailment*, (Feb. 14, 2023), available at <https://www.epa.gov/newsreleases/statement-regional-administrator-debra-shore-east-palestine-train-derailment>.

<sup>12</sup> See Justine McDaniel, *What’s known about the toxic plume from the Ohio train derailment*, WASH. POST, (Feb. 15, 2023), available at <https://www.washingtonpost.com/climate-environment/2023/02/15/ohio-train-derailment-toxic-chemicals/>.

<sup>13</sup> *Id.*

<sup>14</sup> See EPA, *On-Scene Coordinator, East Palestine Train Derailment*, available at [https://response.epa.gov/site/site\\_profile.aspx?site\\_id=15933](https://response.epa.gov/site/site_profile.aspx?site_id=15933).

remain ongoing, the Committee expects timely updates on not only the decisions made, but also the rationale supporting those actions.

To assist the Committee with its inquiry, please provide responses to the following questions, as soon as possible, but no later than 5:00 p.m. ET on March 13, 2023:

1. A document sufficient to describe EPA's role in responding to the train derailment, including but not limited to, when EPA's response role began, the anticipated timeline for response efforts, and the names and titles of EPA officials responsible for leading the response. Please include all documents utilized to respond to this request.
2. A document sufficient to describe the decision-making process supporting the controlled vent and burn, including but not limited to, the EPA official who signed off on the decision, the steps taken to consult with state and local officials, and how this decision was communicated to the public. Please include alternative options that were considered, and detail why those options were not pursued. Please include all documents utilized to respond to this request.
3. All documents describing the steps implemented to ensure the surrounding communities' safety during the controlled vent and burn.
4. A document sufficient to describe the types of monitoring employed by EPA to assess environmental quality, including but not limited to, water, air, and soil quality. Please detail whether the chosen methods are the standard response, and if not, explain why EPA deviated from standard practices.
  - a. All documents and communications showing the environmental test results, including air, water, and soil tests. Please also provide the threshold for determining the air, water and soil were safe and posed no threats to humans or animals.
  - b. All documents and communications related to selecting where environmental testing would occur, including but not limited to, the location of environmental testing, the rationale for selecting these areas for testing, and any cost-benefit analysis for prioritizing the locations of environmental testing.
5. A document sufficient to describe the legal authorities that EPA has utilized and copies of any communications, letters, or documents that EPA has provided to notify or advise parties of these actions.
6. All documents and communications related to the planning of Administrator Regan's visit to East Palestine, Ohio, including but not limited to, trip itinerary, decisions on where to visit, and evaluation of risk due to the hazardous materials.

7. All documents and communications related to the granting of a disaster declaration to East Palestine, Ohio, including but not limited to, all communications with the Federal Emergency Management Agency (FEMA).

Pursuant to House Rule X, clause 1(r), the Committee has jurisdiction over these issues and shall conduct appropriate oversight of these actions. This request and any documents created as a result of this request will be deemed Congressional documents of the Committee. An attachment contains additional instructions for responding to this request. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2165 of the Rayburn House Office Building and the Minority Staff in Room 2164 of the Rayburn House Office Building.

If you have any questions about this request, please contact Drew Feeley, Staff Director of the Subcommittee on Railroads, Pipelines, and Hazardous Materials at (202) 225-9446. Thank you for your prompt attention to this matter.

Sincerely,



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Sam Graves  
Chairman  
Committee on Transportation  
and Infrastructure



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Troy E. Nehls  
Chairman  
Subcommittee on Railroads, Pipelines, and  
Hazardous Materials



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Brian Babin, D.D.S.  
Member of Congress



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Aaron Bean  
Member of Congress



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Mike Bost  
Member of Congress

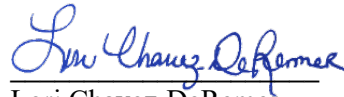


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Tim Burchett  
Member of Congress



Eric Burlison  
Member of Congress



Lori Chavez-DeRemer  
Member of Congress



Mike Collins  
Member of Congress



Eric A. "Rick" Crawford  
Member of Congress



Anthony D'Esposito  
Member of Congress



John Duarte  
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Chuck Edwards  
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Mike Ezell  
Member of Congress



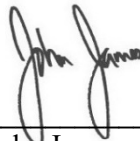
Jenniffer González-Colón  
Member of Congress



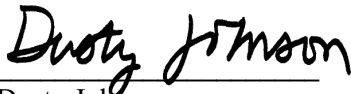
Lance Gooden  
Member of Congress



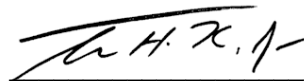
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Member of Congress



John James  
Member of Congress



Dusty Johnson  
Member of Congress



Thomas H. Kean Jr.  
Member of Congress



Doug LaMalfa  
Member of Congress



Tracey Mann  
Member of Congress



Thomas Massie  
Member of Congress



Brian Mast  
Member of Congress



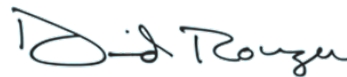
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David Rouzer  
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Pete Stauber  
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Jefferson Van Drew  
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Derrick Van Orden  
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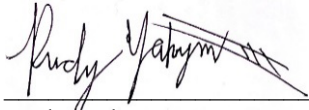
Daniel Webster  
Member of Congress



Bruce Westerman  
Member of Congress



Brandon Williams  
Member of Congress



Rudy Yakym, III  
Member of Congress

CC: The Honorable Rick Larsen, Ranking Member  
Committee on Transportation and Infrastructure

The Honorable Donald M. Payne, Jr., Ranking Member  
Subcommittee on Railroads, Pipelines, and Hazardous Materials

Enclosure:

Attachment A – Requirements for Responding to the House Committee on Transportation and Infrastructure Records Requests in the 118<sup>th</sup> Congress