



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree under the Comprehensive Environmental Response, Compensation, and Liability Act and the Clean Water Act

On May 23, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *The State of Ohio and The United States of America v. Norfolk Southern Railway Company, et al.*, Case No. 4:23-cv-00517.

The proposed Consent Decree settles claims brought by the United States under sections 309 and 311 of the Clean Water Act (“CWA”), 42 U.S.C. 1311 and 1321 and sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. 9607 and 9613, against Norfolk Southern Railway Company and Norfolk Southern Corporation (“Defendants”) related to the February 3, 2023 train derailment in East Palestine, Ohio. The proposed Consent Decree would require Norfolk Southern: (i) to reimburse all CERCLA and CWA section 311 response costs incurred by the United States; (ii) pay a civil penalty of \$15 million for violating CWA sections 301 and 311; (iii) establish a \$25 million community health program for qualifying members of the public impacted by the derailment; (iv) implement an array of specified rail safety procedures; (v) develop and adopt programs for coordination of rail track restoration and vent and burn procedures; (vi) implement a \$6 million local waterways remediation plan; (vii) pay \$175,000 for natural resource damages; and (viii) implement compliance and future monitoring requirements in the various work plans approved under EPA’s Unilateral Administrative Orders and CWA Order.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *The State of Ohio and The United States of America v. Norfolk Southern Railway Company, et al.*, D.J. Ref. No. 90-11-3-

12792. All comments must be submitted no later than 30 days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>.

If you require assistance accessing the consent decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Laura Thoms,

Assistant Section Chief,

Environmental Enforcement Section,

Environment and Natural Resources Division .

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