

East Palestine Fire Department

P.O. Box 231* East Palestine* Ohio 44413

Keith Drabick
Fire Chief

Cell: (440) 915-2838
Fax: (330) 426-1200

August 3, 2023

VIA ELECTRONIC MAIL

Ruben Payan, Investigator-in-Charge
National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, DC 20594
payanr@ntsb.gov

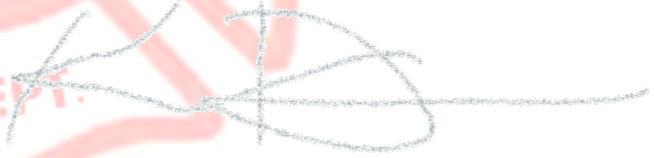
Re: NTSB Accident No. DCA23HR001

Dear Mr. Payan,

In accordance with 49 CFR § 845.13, enclosed please find the Village of East Palestine's Party Submission regarding the above-captioned incident. The submission includes proposed safety recommendations based on the Village of East Palestine's experience in responding to the incident and evidence produced during the course of the investigation.

If you have any questions regarding this submittal, please do not hesitate to contact me. Thank you for your consideration of these proposed recommendations and the opportunity to submit.

Very truly yours,



Keith Drabick
Chief, East Palestine Fire Department

Encl.

Post-Hearing Party Submission of the Village of East Palestine, Columbiana County, Ohio

August 3, 2023

In the matter of the investigation of the Norfolk Southern Railway freight train 32N derailment with subsequent hazardous material release and fires, in East Palestine, Ohio, on February 3, 2023

Proposed Safety Recommendations

NTSB Public Docket: DCA23HR001

I. Introductory Statement

The Village of East Palestine is submitting its proposed findings, probable cause, and safety recommendations to the National Transportation Safety Board (NTSB) in relation to the investigation of Norfolk Southern Railway train 32N derailment (also known as Train 32N) on February 4, 2023, for the NTSB's consideration. According to 49 CFR § 845.13, following the NTSB's investigative hearing, any party to the hearing may submit proposed findings, probable cause, and safety recommendations to prevent future accidents.

Under 49 CFR § 845.6, the NTSB Chair is required to designate parties to the investigative hearing whose participation in the hearing it deemed necessary in the public interest and whose special knowledge will contribute to the development of pertinent evidence. The derailment occurred within the jurisdiction of the East Palestine Fire Department (EPFD) and the East Palestine Police Department (EPPD). Accordingly, the NTSB designated the Village of East Palestine as a party to the investigative hearing. Furthermore, during the hearing held on June 22 and June 23, 2023, Keith A. Drabick, EPFD Chief, and Dan Haueter, EPPD Detective, provided live testimony regarding hazard communications, emergency responder preparedness, and circumstances that led to the decision to vent and burn five vinyl chloride tank cars. Other parties to the NTSB investigation included various organizations involved in the accident.¹

As the first responders to the accident, EPFD and EPPD played a crucial role in the response to the derailment of NS Train 32N and continue to do so as part of incident command. This submission outlines East Palestine's recommendations based on its experience in responding to the Train 32N derailment and subsequent hazardous material release and fires that occurred on February 3, 2023 and thereafter, and the evidence presented during the NTSB hearing. It is the hope of East Palestine that the NTSB will consider these recommendations in formulating its own recommendations for how best to enable communities to be prepared to respond to emergencies such as what East Palestine experienced.

II. East Palestine's Recommendations

Informed by East Palestine's experience in responding to the derailment of NS Train 32N and the evidence presented and discussed during the NTSB's investigation and hearing, East Palestine makes the following recommendations for the NTSB's consideration.

¹ These other parties include the Pipeline and Hazardous Materials Safety Administration, Federal Railroad Administration, Norfolk Southern Corporation, Trinity Rail Management Leasing Service, Oxy Vinyls, LP, Brotherhood of Locomotive Engineers and Trainmen, Brotherhood of Railroad Signalmen, International Association of Sheet Metal, Air, Rail and Transportation Workers, Transportation Communication Union/IAM, International Association of Fire Fighters, and Ohio State Highway Patrol.

A. Regional Response Team

Develop a program for rural areas and smaller communities to equip, train and sustain multi-municipal Regional Response Teams with fully trained, cross-functional expertise

Similar to East Palestine, many small and rural county fire departments in Ohio and across the country have around 20-40 volunteer members with varying levels of experience. It's not feasible for these fire departments to individually maintain every type of specialized emergency response team (*e.g.*, such as those needed for responding to emergencies involving HAZMAT, Large Vehicle Rescue, Confined Space Rescue, Trench Rescue, Silo Rescue/Fire, Rope Rescue, and Water Rescue, to name a few) due to the specialized training and expensive equipment needed. Although an East Liverpool HAZMAT team was deployed to the site, Columbiana County lacks the overall necessary resources and expertise to implement these various types of specialized operations. And for departments that do have specialized training, their expertise and skills often go underutilized, absent regional coordination, thereby making it difficult to justify maintaining that expertise.

Accessing outside specialized support during an emergency, such as from a state's National Guard, can be complicated and time-consuming due to multiple command levels to navigate and distant locations. Crews are often stationed all across the state, which is not feasible or beneficial in an emergency situation.

The solution to this issue is targeted funding and support for the creation of regional response teams, to ensure a cross-functional task force is available for deployment during emergencies and that it is done on a distributed scale that is practical and financially sustainable. This model has been implemented in various areas throughout the state and country. For example, in Beaver County, Pennsylvania, four departments are organized together to maintain the necessary equipment for tasks such as rope, confined trench, and machinery rescue. Another two nearby departments specialize in farm animal and large animal rescue, while a few others focus on wilderness search and rescue, as well as water rescue. All departments receive notifications when a response is required, allowing for a coordinated regionalized system within Beaver County.

In order to implement regionalization, each county should inventory their emergency departments to identify strengths and deficiencies regarding equipment and training. Counties can then assign departments to specialize in areas where they are already well-equipped and trained. For example, Highlandtown, Ohio has received funding from a private company within the community and has a specialization in rope and high-angle rescue.

With financial support from public sources, as well as the private sector organizations benefiting from these enhanced first responder resources perhaps, such regional teams could become a reality nationwide and elevate the level of emergency response that small communities can provide to the same level seen in most metropolitan areas.

B. Training

1. Increase state minimum of 36-hour class training for volunteer firefighters

The current minimum training scheme for volunteer firefighters is inadequate and puts these volunteers at risk when responding to accidents such as the derailment of Train 32N. The Ohio Emergency Medical Services² describes the volunteer firefighter training requisites in Ohio, as summarized in part below:

- A Volunteer Firefighter certification is the minimum level of certification required to provide firefighting services in the State of Ohio.
- The certification is a stand-alone certificate specific to the State of Ohio which does not meet the minimum “Standard for Fire Fighter Professional Qualifications” established by the National Fire Protection Association (NFPA) 1001 as a qualifying level of public safety responder for trained firefighters.
- To be eligible for a Volunteer Firefighter certification, an individual shall complete a State of Ohio Certified Volunteer Firefighter Course; a 36-hour introductory, awareness-level course, provided by an Ohio chartered fire training program.
- The course does not permit student participation in any instruction involving the type of hazardous environments in which their fire department may operate. Prohibited activities include environments which are considered to be “Immediately Dangerous to Life or Health” (IDLH), including but not limited to, hot zone operations at uncontrolled fires or hazardous materials releases involving fixed structures, mobile equipment, or outdoor areas as well as operation of emergency vehicle apparatus.
- The fire chief or the authority having jurisdiction (AHJ) is responsible to provide additional proper training in these expanded areas.
- The certification must be renewed every three years, with fifty-four (54) hours of continuing education required during each three year cycle.

Other than the position of chief, the entire EPFD is comprised of volunteers. Volunteer firefighters are exposed to the same dangers as career firefighters, yet the current minimum requirement falls short of a standard 40-hour training class, and only provides basic information that can be dangerous if not applied correctly.

The minimum training requirements should align with training recommendations outlined in the Insurance Services Office (ISO) Class I certification and the National Fire Protection Association (NFPA) Standards.

² Ohio Emergency Medical Services, Certifications, Fire Service, Fire Service Certificates to Practice, Volunteer Firefighter (VFF) (July 21, 2023), [https://ems.ohio.gov/certifications/fire-service/fire-service-certificates-to-practice#:~:text=Volunteer%20Firefighter%20\(VFF\)&text=To%20be%20eligible%20for%20a,Ohio%20chartered%20fire%20training%20program](https://ems.ohio.gov/certifications/fire-service/fire-service-certificates-to-practice#:~:text=Volunteer%20Firefighter%20(VFF)&text=To%20be%20eligible%20for%20a,Ohio%20chartered%20fire%20training%20program)

- 2. Employers should provide volunteer emergency responders with unpaid time off for mandatory training*

Volunteer firefighters want more training. Unfortunately, the majority of the suitable training is conducted during weekday business hours, and lasts for 40 hours or more. The National Fire Academy and similar organizations provide accommodation and tuition fees for extensive 1–2 week trainings. Yet most volunteer firefighters are unable to take substantial time off of their day jobs to make this commitment. Volunteer firefighters should not be required to use vacation or sick time to serve their community.

Instead of reducing the amount of adequate training, the State should mandate all employers to provide unpaid leave to employees who serve as certified volunteer firefighters in their community. This type of leave exists for other forms of service, such as jury duty and military leave, both of which are important functions, but no more important than the protection of life and property. The Jury Systems Improvement Act, under federal law, requires all employers to provide unpaid leave to employees who are summoned to be jurors in federal courts. Ohio law (R.C. 2313.19) ensures that employers cannot request an employee to use annual, vacation, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent serving on a jury. Similarly, under the Uniformed Services Employment and Reemployment Rights Act of 1994, employers must provide unpaid leave of absence for a period not exceeding 5 years to perform any form of military service, including training and active duty. Volunteer firefighters should receive this same legislative support.

- 3. Provide local, weekend, and evening training to coincide with volunteer emergency responders' work schedules*

It is equally important to provide locally available training classes on weekends and evenings to better accommodate the volunteer nature of emergency services.

- 4. Provide funding to pay emergency responders during mandatory training*

It is essential for fire departments to have the necessary funding to pay volunteer firefighters for the time they spend on training. Greater federal and state funding, as well as funding from local industry, including the railcar industry, should be implemented.

C. Staffing

Provide grants and funding to emergency response units to (1) ensure adequate 24/7 coverage for emergencies, and (2) convert a portion of the staff from volunteer to full or part-time employees

Emergency response jurisdictions like East Palestine do not have enough staff available at all times to handle catastrophic-level emergencies that may occur as a result of a commercial train passing through every nine minutes. Emergencies can happen at any time during the day. This derailment happened during the evening when volunteer staff members were not at work and

available to respond. Had this derailment happened before 5:00 pm, volunteer firefighters would have been at work and the initial response would have involved significantly fewer firefighters.

Furthermore, many departments pay per hour or per call, only having the funding to pay miniscule wages that barely offset the cost of time and fuel. Greater funding is needed. Converting some volunteer staff to full or part-time staff, maintained around the clock 24/7, would help to ensure that emergency response units are always adequately staffed and prepared to handle any type of emergency.

D. Communication

Develop and adequately fund centralized 911 centers and unified satellite 911 centers with improved universal frequency to efficiently facilitate catastrophic emergencies

Communication is the bedrock of emergency response. Yet, 911 systems around the country are underfunded, and Ohio is no different. The state ranked 48th in wireless fees in 2022, reducing fees while other states increased them.³ For instance, Pennsylvania charges \$1.65 per wireline, wireless, prepaid wireless, and voice over internet protocol (monthly fee), compared to Ohio's surcharge wireless fee of \$0.25 (monthly fee).⁴ House Bill 33, the recent state budget bill, aims to improve the 911 system by upgrading to NextGen 911, and this will result in an increase in fees to 40 cents per month for wireless, voice over internet protocol, and multiline in 2024.⁵ This is a significant improvement. However, the fees will later drop back down to 25 cents per month. Although House Bill 33 makes a significant contribution to 911 call centers in Ohio (\$46 million), it will not be a sufficient increase to allow local jurisdictions to meaningfully organize, develop, and maintain centralized 911 centers in Ohio.

Further, the use of a universal frequency to efficiently communicate and deploy emergency assistance is essential. The lack of a centralized communication system significantly inhibited East Palestine and the other first responders in responding to this derailment.

³ Titus Wu, Ohio lawmakers push for 911 upgrade to allow texts, but county officials balk at the costs, The Columbus Dispatch (Feb. 7, 2022) (accessed July 21, 2023), <https://www.dispatch.com/story/lifestyle/public-safety/2022/02/07/advocates-push-statewide-funding-next-generation-911-system-ohio-technology-texting-calling-costs/9303922002/>.

⁴ Federal Communications Commission, Fourteenth Annual Fee Report State Filings, 2022 Filings (accessed July 21, 2023), <https://www.fcc.gov/fourteenth-annual-fee-report-state-filings>; *see also* NENA, 911 Surcharge User Fees by State (accessed July 21, 2023), <https://www.nena.org/page/911RateByState>.

⁵ Ohio 135th General Assembly, Amended Substitute House Bill Number 33 (accessed July 21, 2023), https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_135/bills/hb33/EN/06/hb33_06_EN?format=pdf.

E. Consist

Adopt a rule requiring railroads to proactively and promptly provide consist information to local first responders following an accident involving a train car and/or a release of hazardous material from a train car

Railroads operating a train carrying hazardous materials must be required to proactively and immediately provide consist information to state-authorized local first responders needing that information following an accident involving the train or an incident involving the release or suspected release of hazardous material from the train. The onus cannot be on first responders to attempt to chase down the consist when there is an active emergency requiring their attention.

Moreover, while the AskRail application that was discussed at the NTSB hearing is a positive tool, unreliable internet connectivity in rural areas presents a significant challenge. First responders in these areas cannot solely rely on internet-based delivery of the consist. Railroads must also ensure that, in updating that electronic train consist information, they also update hard (printed) copy versions of the same information provided to train crews such that both hard (printed) copy and electronic versions of that information are consistent, accurate, and pushed to the first responders at the accident site. Numerous methods of conveying consist information should be required. By way of one example, the railroad dispatch center should, as a matter of course, immediately send the consist to the 911 department of the impacted community.

In a positive development, on June 27, 2023, the Pipeline and Hazardous Materials Safety Administration published a proposed rule to require, amongst other things, railroads to generate updated, real time consists in electronic form and make these available to first responders to enhance emergency response and investigative efforts.⁶

III. Conclusion

Greater coordination, staffing, resources, and support is needed in order to allow communities to be better prepared to respond to emergencies like what East Palestine experienced. East Palestine thanks the NTSB for the opportunity to provide these recommendations.

⁶ 88 FR 41541 (June 27, 2023) (accessed July 21, 2023), <https://www.federalregister.gov/documents/2023/06/27/2023-13467/hazardous-materials-fast-act-requirements-for-real-time-train-consist-information>.

CERTIFICATE OF SERVICE

Pursuant to 49 CFR § 845.13, on August 3, 2023, a full and complete copy of the **Post-Hearing Party Submission of the Village of East Palestine, Columbiana County, Ohio** has been provided to the parties listed below via electronic mail, and U.S. mail upon request.

National Transportation Safety Board (NTSB)	Rueben Payan Investigator-in-Charge National Transportation Safety Board 490 L'Enfant Plaza Washington, DC 20509 payanr@ntsb.gov
Federal Railroad Administration (FRA)	Karl Alexy Associate Administrator Federal Railroad Administration 1200 New Jersey Avenue, SE Washington, DC 20590 John.Alexy@dot.gov
Pipeline and Hazardous Materials Safety Administration (PHMSA)	William Schoonover Associate Administrator Pipeline and Hazardous Materials Safety Administration 1200 New Jersey Avenue, SE East Building, 2 nd Floor Washington, DC 20590 William.Schoonover@dot.gov
Norfolk Southern Corporation	David Gooden Division Superintendent 650 W Peachtree Street, NW Atlanta, GA 30308 david.gooden@nscorp.com
Trinity Rail Management Leasing Services	A.D. McKisic Vice President, Chief Engineer Trinity Industries Leasing Company 14221 N. Dallas Pkwy., Ste. 1100 Dallas, TX 75254 a.d.mckisis@trin.net
Oxy Vinyls, LP	Karenanne Stegmann Vice President, Supply Chain OxyVinyls 14555 Dallas Parkway, Suite 400 Dallas, TX 75380-9050 karenanne_stegmann@oxy.com
Brotherhood of Railroad Signalmen	Quinn Norman Vice President Brotherhood of Railroad Signalmen

	<p>917 Shenandoah Shores Road Front Royal, VA 22656 r.norman@brs.org</p>
<p>Brotherhood of Locomotive Engineers and Trainmen (BLET)</p>	<p>L. Randy Fannon Vice President Safety Task Force 7061 East Pleasant Valley Road Independence, Ohio 44131 fannon@ble-t.org</p>
<p>International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART)</p>	<p>Jared Cassity Alternate National Legislative Director 1750 New York Eve. NW, 6th Floor Washington, DC 20006 jcassity@smart-union.org</p>
<p>Transportation Communications Union/IAM (TCU)</p>	<p>Jason Cox National Representative Transportation Communications Union/IAM P.O. BOX 570 Bellevue, OH. 44811 coxj@tcunion.org</p>
<p>International Association of Fire Fighters (IAFF)</p>	<p>Paul G. Carey HazMat Instructor 55 Hallet St Boston, MA 02124 capfd@aol.com</p>