

Freedom of Information Act Request

On behalf of the Government Accountability Project, I hereby request the following records related to the February 3, 2023 East Palestine train derailment and its aftermath:

1. All lists of any chemicals that were spilled and/or ignited as a result of the derailment and/or controlled burn, including quantities of each chemical that was spilled and/or ignited. As an alternative to producing all such lists, EPA may satisfy this item of the request by producing records sufficient to show every chemical that was spilled and/or ignited as a result of the derailment and/or controlled burn and the quantity of each such chemical.
2. All test results, sampling data, lab reports, lab data, and quality assurance/quality control data resulting from sampling tests of dioxin or dioxin-related compounds in the air, soil, water, homes, or businesses following the derailment. Please include such records for testing conducted by EPA, Norfolk Southern, the Center for Toxicology and Environmental Health, and/or any other entity that performed such testing.
3. All emails referring to the independent sampling and/or testing of dioxins or dioxin-related compounds conducted by Scott Smith. Please search all custodians reasonably likely to possess responsive records. Without limiting this item of the request, those custodians might include Mark Durno.
4. All test results, sampling data, lab reports, lab data, and quality assurance/quality control data resulting from sampling tests of acrolein or acrolein-related compounds in the air, soil, water, homes, or businesses following the derailment. Please include such records for testing conducted by EPA, Norfolk Southern, the Center for Toxicology and Environmental Health, and/or any other entity that performed such testing.

Request for Fee Waiver

[INSERT STANDARD GAP FEE WAIVER LANGUAGE. MAYBE GO BACK TO GAP TO SEE IF WE CAN FIND PAST EXAMPLES OF EPA OR OTHER AGENCIES GRANTING FEE WAIVERS.]

Request for Expedited Processing

There is a compelling need for expedited processing of each part of this request. That is both because “the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual,” and there exists “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” 40 C.F.R. § 2.104(f). *See also* 5 U.S.C. § 552(a)(6)(E)(v).

Life or physical safety

EPA has publicly stated that East Palestine residents are safe from chemicals that entered the environment after the February derailment.¹ Residents are presumably relying on this representation to make medical choices, decide whether to relocate, and generally plan their lives.

Whether or not EPA is right about the current safety of East Palestine, residents continue to suffer from a long list of symptoms with which they became afflicted immediately after the derailment. Here is a non-exhaustive list of such symptoms gathered from my personal interviews with East Palestine residents in late September and early October:

- Heavy menstruation followed by a complete halt to menstruation;
- Uterine nodules;
- Seizures;
- Recurrent headaches;
- Dizziness;
- Insomnia;
- Constant fatigue;
- Coughing up blood;
- Bleeding out ears;
- Earaches;
- Numb extremities;
- Tingling and numbness in lips;
- Severe toothaches;
- Tooth decay;
- Lost teeth;
- Hypertension;
- Nausea;
- Diarrhea;
- Muscle aches;
- Hair falling out;
- Involuntary curling of hands;
- Chemical bronchitis.

These symptoms are not limited to residents. According to further news reports, seven CDC investigators contracted several of these symptoms on a temporary visit to East Palestine, and those symptoms disappeared soon after they left the area.²

Medical professionals have recognized that treating these current and severe symptoms requires understanding their causes. Dr. Erin Haynes, a professor of preventive medicine and environmental health at the University of Kentucky, stated in late February that it is unknown when East Palestine would become safe again, and that understanding this requires the results of

¹ <https://www.epa.gov/east-palestine-oh-train-derailment/home-and-office-cleaning#:~:text=Air%20monitor%20and%20sampling%20in.concern%20for%20incident%20specific%20chemical>

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² <https://www.cnn.com/2023/03/31/health/ohio-train-derailment-cdc-team-symptoms/index.html>.

“research to determine what types of chemicals formed during the burn and how people can be exposed to them.”³ Whether or not East Palestine is currently safe, it is imperative for medical professionals to have a complete list of the chemicals to which the residents might have been exposed at some point (*Item 1 of the request*). Concentrations of those chemicals are also essential so that providers can understand which chemicals are present in high enough doses to cause illness and thus perform a differential diagnosis.

But there is also substantial evidence of unsafe levels of certain chemicals, which contradicts EPA’s conclusion that East Palestine is a safe place to live. Two types of chemicals are of particular concern.

The first are dioxins. EPA has tested dioxins and dioxin-related compounds in East Palestine and detected them within the range of 2.6 to 14 ppt (using the TEQ value). However, an independent analyst, Scott Smith, has tested dioxins at a concentration of 1,900 ppt (also using the TEQ value).⁴ This discrepancy is significant. According to EPA publications, a residential TEQ concentration of more than 1 ppb (*i.e.*, 1,000 ppt) “is at the higher end of the range of excess cancer risks that are generally acceptable at Superfund sites.”⁵ Thus, whether such unsafe dioxin levels exist in East Palestine depends entirely on whether EPA’s or Mr. Smith’s data is more valid and/or representative of actual dioxin concentrations in East Palestine. Because of this, it is imperative that the public understand how EPA tested for dioxins in East Palestine (*Item 2 of the request*) and how it analyzed and reacted to Mr. Smith’s findings (*Item 3 of the request*). If Mr. Smith’s testing is more accurate, residents will need to take precautions to protect themselves against potentially carcinogenic exposures and possibly also get screened for dioxin-induced cancer.

The second chemical of concern is acrolein. As reported in a September 25, 2023 memorandum, EPA OIG “noted multiple instances in the air monitoring and sampling data on the EPA’s East Palestine website,, including ... [e]xceedances and missing data on the concentrations and public health impact of acrolein, a hazardous air pollutant that was presumably created by the burning of other chemicals during the incident.”⁶ Similarly, researchers from Carnegie Mellon and Texas A&M confirmed the detection of “some levels [of acrolein] substantially above long-term health thresholds,” and noted that high levels of acrolein can cause symptoms including eye watering, burning of the nose and throat, decreased breathing rates, and “pathological lesions and nasal tumors with long-term chronic exposure.”⁷ Given these findings, the public urgently requires more information about EPA’s acrolein testing (*Item 4 of the request*) to determine what action to take in response to their ongoing exposure to this dangerous chemical.

Urgency to inform the public.

³ <https://uknow.uky.edu/research/qa-environmental-health-scientist-erin-haynes-potential-impacts-east-palestine-disaster>.

⁴ <https://www.morningjournalnews.com/news/local-news/2023/07/the-epa-responds-to-independent-dioxin-study/>.

⁵ <https://nepis.epa.gov/Exe/ZyPDF.cgi/91015B0S.PDF?Dockey=91015B0S.PDF>. This 1998 conclusion was later reaffirmed. <https://www.epa.gov/sites/default/files/2015-11/documents/92-857-84fs.pdf>.

⁶ https://www.epaoig.gov/sites/default/files/document/2023-09/oig_east_palestine_status_memo.pdf.

⁷ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10413936/>.

There is an urgency to inform the public for all the reasons just given. In addition, there is an urgent need for the public, including environmental scientists, medical professionals, and public health experts to weigh in on the adequacy of EPA's chemical testing and the accuracy of its representation that East Palestine is a safe place to live. Depending on the outcome of that public discussion, EPA, other government entities, and East Palestine residents may need to change their responses to the ongoing situation. These changes might come too late if the request is not expedited because of the ongoing harms residents may be suffering at the hands of dangerous chemical exposures.

Finally, as discussed above in the section on fee waivers, GAP is primarily engaged in the dissemination of information. That section is hereby incorporated by reference.

I, Lesley Pacey, hereby certify that the above expedited processing statement is true and correct to the best of my knowledge and belief.

Lesley Pacey