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EPA Could Charge Norfolk Southern \$70,000 a Day if Their Ohio Derailment Clean-up Isn't up to Par. That Could Be On Top of a Growing Number of Lawsuits Already Piling Up, Legal Expert Says.

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- Norfolk Southern Railway Company is facing simmering legal issues in the wake of a toxic derailment.
- Class action lawsuits are piling on, with federal and state authorities zeroing in on the company's liability.
- Soon, insurance companies could be asking the train company to foot hefty bills, a legal expert told Insider.

Norfolk Southern Railway Company's bill for a disastrous chemical spill and train derailment in Ohio could continue to increase, with tightening federal cleanup rules and big money lawsuits.

On Tuesday, the Environmental Protection Agency made Norfolk Southern [responsible for the cleanup](#) of the chemicals and the derailment site, with the ability to charge the company \$70,000 a day if the cleanup is insufficient.

In the background, [a growing number of lawsuits](#) are claiming the company was strictly liable for transporting and spilling the ultra-hazardous materials, and insurers could soon look to sue the company, Michael Miguel, a principal at law firm McKool Smith focused on insurance claims, told Insider. Miguel is not connected to any ongoing cases against Norfolk Southern.

In the weeks since the derailment, the National Transportation Safety Board [issued a preliminary report](#), which stated that a wheel bearing on the train overheated to 253 degrees Fahrenheit above ambient temperatures ahead of the derailment.

Thirty eight train cars derailed, with 11 of them containing hazardous chemicals, according to the report.

"We call things accidents. There is no accident," NTSB chief Jennifer Homendy said at a press conference on Thursday. "Every single event we investigate is preventable," calling the derailment "100% preventable."

The company [has agreed to comply with regulators](#) and donated \$25,000 to the town and residents within a one-mile radius are eligible to get a \$1,000 "convenience" check from the company. The company also released [its proposed remediation plan](#), but will likely face lawsuits from states, locals, and insurers.

Norfolk Southern did not immediately return Insider's request for comment.

Beyond class action lawsuits, insurance companies may target Norfolk Southern

After residents make their claims to their various insurers, the train company then could be in the line of fire of insurance companies.

"Norfolk Southern has its own direct insurance issues," Miguel told Insider. "And then they will likely face direct lawsuits from insurance companies who had paid out to the homeowners and the businesses by way of subrogation, alleging a parade of horrors as to why they should be covered."

Class action lawsuits from residents have already flooded in.

One [new lawsuit](#) from law firms Johnson and Johnson and Hagens Berman claims that Norfolk Southern was strictly liable and caused public nuisance through their negligence, and that they should pay back residents and cover future medical expenses.

Hagens Berman represented Ohio in [public nuisance litigation against big tobacco](#) companies in 1998, which led to a \$260 billion settlement in multiple states.

Residents as far as 20 miles from the crash site have reported health issues, according to the new lawsuit.

"After the derailment, Ms. Hutton noticed a strange odor in her home and her dog became ill and started to vomit," attorneys said in the suit. "In addition, Ms. Hutton's eyes burned, she developed a headache, experienced difficulty and pain while breathing."

The latest lawsuit focuses on the company's 'ultra-hazardous activity'

Their lawsuit, which includes a resident who owns 100 rescue animals, also brings a claim of strict liability for ultra-hazardous activity against the train company, and claims the company violated federal law for not immediately reporting the derailment.

"Defendants were engaged in abnormally and inherently dangerous or ultra-hazardous activity in the distribution, transportation, storage, maintenance, inspection, monitoring and use of hazardous chemicals," attorneys wrote in the lawsuit.

Miguel said that the spacing of the train cars and the controlled release of the chemicals could also be nitpicked by lawyers.

"In terms of culpability for the accident, questions are certainly going to be asked about whether there was appropriate spacing of the chemicals from each other?" Miguel told Insider.

"Writing a bunch of a thousand dollars checks for people that are local isn't going to be the end of the liability for Norfolk Southern," Miguel said.