

Municipalities warned by railway companies to keep lists of dangerous materials from public

By James Jackson Jan. 28, 2014 Waterloo Chronicle

CANADA – Municipalities throughout the country could lose access to lists detailing what dangerous materials railway companies are moving through their communities if that information is made public.

In November, Transport Canada announced new safety measures that required all railways to share a list with municipalities of what they're transporting, but according to documents obtained by the Waterloo Chronicle through a Freedom of Information request, municipalities could lose access to that information if it is ever revealed.

The City of Waterloo received that list last March from the Goderich-Exeter Railway, the company that operates along the Waterloo spur line near uptown Waterloo, following a train derailment in October 2012 that went unreported to both the region and the city.

The Chronicle requested access to that information in May and filed a Freedom of Information request with the city after Quan and GEXR refused. That information request was formally denied by the city on July 4, 2013.

In documents filed to the Information and Privacy Commissioner and made available to the newspaper last week, the city argued it is in the public's best interest that the information remain a secret in order to prevent emergency staff from being denied access to such information in the future.

The city was informed by the railway that if the integrity of the information it provides could not be ensured, "GEXR may, in the interests of security, be forced to refuse disclosure in the future."

Officials in Waterloo are worried that if the railway no longer supplies this information to the municipality, and emergency services personnel respond to an incident without the proper knowledge of the situation, it could increase the likelihood of negative impact on the public. "Therefore, there is a compelling public interest then in non-disclosure beyond that of the emergency services personnel," the city wrote.

In November the federal government announced Protective Direction 32, which required railways in Canada to tell municipalities what dangerous goods the company is transporting through them. It was issued under the Transportation of Dangerous Goods Act and will remain in effect for three years.

Section three of that directive states railways are no longer required to provide that information to municipalities if those cities or towns fail to keep the information secret.

Protective Direction 32 was developed in partnership between railway operators, the Federation of Canadian Municipalities, municipal city planners, the Railway Association of Canada and the Canadian Association of Fire Chiefs, according to an email from Transport Canada.

Roxane Marchand of Transport Canada also wrote they were unaware of any other Freedom of Information requests in Canada seeking this kind of information.

The FCM railway safety working group was formed in the wake of the derailment and explosion of a train carrying crude oil through the Quebec town of Lac-Mégantic, which killed 47 people on July 6, 2013.

Doug Reycraft, co-chair of that working group, said they are generally pleased with how railways have complied with their recommendations, and said getting the information into the hands of emergency responders was their primary goal.

"We think they need to have the best information that's available in order to deal with the emergency," said Reycraft. He noted many railways raised concerns that if information about what they're shipping is made public it could put them at a competitive disadvantage.

That runs counter to the argument made by GEXR when the Chronicle requested the list of dangerous goods last year. The company said it kept that information confidential for safety purposes.

"To be honest, I haven't heard that (reason)," said Reycraft. "Whenever there's any discussion with (railways) about sharing information, they seemed concerned about it getting into the hands of their competitors and undermining their position."

Many residents in Waterloo have expressed concern over what is being moved through their community by rail. Reycraft, however, doesn't believe knowing this kind of information would give homeowners or businesses any more piece of mind. He lives about 900 feet from a Canadian National rail line in his home town of Glencoe, 45 minutes southwest of London.

"I'm not sure if knowing what's going through the municipality is a good thing or not, it might make it more difficult for me to sleep well," he said. "It's making sure we're ready to respond to an emergency if and when it occurs that is important."

In October 2012 a GEXR train headed northbound to Elmira derailed near city hall. Nothing was spilled, but GEXR and CN, which maintains that section of track, failed to notify the city and the region of the incident.

Placards, or signs, attached to each car provide a general description of what the cars are carrying, but the city said the information provided to Quan last March is much more detailed. In August, an independent investigation by the Chronicle found sodium hydroxide and potassium hydroxide are just some of the chemicals moved through the city core by GEXR.

CN has also refused to reveal the number of faults its engineers have discovered since the derailment last October. An investigation into that derailment determined a broken link between two rails was the cause.

In an email to the Chronicle last November, CN Rail spokesperson Lindsay Fedchyshyn said no faults were detected during the most recent inspection, but wouldn't say how many had been found prior to that inspection.

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