

FCM, RAC renew proximity issues MOU

The Federation of Canadian Municipalities and the Railway Association of Canada have renewed a memorandum of understanding (MOU) on working co-operatively to resolve complaints about train noise

Mike Lowenger, RAC's Vice President of Operations & Regulatory Affairs, says the new MOU has no expiry date and contains provisions for regular updating. "We want to see how well it is working and how people have responded. We are also looking at strategies for making people more aware of it."

The status of the MOU got a big boost last year when the Canadian Transportation Agency incorporated many of its provisions into guidelines on handling public complaints about railway noise. The CTA was assigned responsibility for that issue by Parliament in 2007. Its Guidelines require complainants to try mediation with the railway before the Agency will consider formal hearings that could lead to orders to a railway to change its operations.

Lowenger says the two organizations plan to do more outreach to municipalities to increase their awareness of proximity issue initiatives which are explained on the website www.proximityissues.ca.

"The CTA has reinforced the dispute resolution mechanism model we developed, which is good because it doesn't distract from what we're doing," he added. It is especially helpful the Agency requires mediation before it will consider a dispute in a hearing. FCM and RAC have a steering committee on proximity issues that is watching on how the Guidelines evolve over time. There is concern some complainants will try a short cut through the mediation process to get a hearing.

CTA spokesman Marc Comeau says the Agency hasn't received a lot of complaints so far. "Most are resolved in mediation with the railway." It has conducted one formal hearing that resulted in the dismissal of a complaint against CPR. The Agency said the railway was taking steps to reduce its impact on the local community.

"Most complaints so far have come from Ontario and Quebec," he said. "About half of them involve noise from yards and the rest are the noise and vibration of passing trains."

The CTA requires a complainant and the railway to try to resolve their differences within 60 days although they can extend the deadline if they wish.

Jeff McConnell, chairman of the FCM Committee on Municipal Infrastructure and Transportation Policy, said in an interview the MOU stresses co-operation and consultation in dealing with complaints. The most common ones involve train whistling, blocked crossings, noise in terminals and yards and the use of herbicides by track maintenance gangs. As well, the railways have concerns with municipalities that make zoning decisions that allow housing subdivisions close to busy rail lines.

In response to repeated noise complaints, Lowenger noted that Transport Canada has approved changes to rules on whistling at level crossings that reduce the length of time a train must sound its horn. Slower moving trains can blow their horns closer to a crossing than faster ones. As well, municipalities can apply to have whistling stopped at crossings that are protected with flashing lights and barriers.

McConnell, a Councilor in the Manitoba community of Virden that is bisected by CP's transcontinental line, likes the mediation first approach. "It wants the process to produce a settlement that all parties are satisfied with." The 60-day deadline for mediation keeps disputes from festering. The CTA requirement that municipalities must be informed whenever an individual makes a complaint is beneficial because the issue often affects local governments.

Continuing co-operation is important to reducing conflicts within communities about railway operations, he says. The CTA guidelines emphasize the need to find reasonable solutions to public concerns and the railways' operational requirements.

The Agency's guidelines are available on its website www.cta-otc.gc.ca.