



Heavily redacted forms showed exactly where oil moved in the state through 2012, but ODOT says it did not have reports for 2013, a year when oil-by-rail shipments increased 250 percent in Oregon.

PHOTO BY ROB DAVIS/THE OREGONIAN

ODOT to keep public in dark

The state agency will stop asking railroads for information about trains carrying hazardous crude oil

By Rob Davis | The Oregonian
Wednesday, April 23, 2014

The Oregon Department of Transportation, the state's rail safety overseer, says it will no longer ask railroads for reports detailing where crude oil moves through the state after The Oregonian successfully sought to have them made public.

Railroads "provided us courtesy copies with the understanding we wouldn't share it -- believing it might be protected," ODOT spokesman David Thompson said in an email. "We now know that the info is NOT protected; so do the railroads."

The result? At a time of heightened public concern about increasing volumes of crude oil moving by rail in Oregon, ODOT is reducing the flow of information that has benefited not only the public but its own employees.

State law requires railroads to annually submit detailed reports saying what dangerous substances they've moved, where and in what volume. They're due to emergency responders across the state by March 1 of each year. That hasn't been happening.

The reports have been sent to ODOT instead, which historically acted as a central hub, providing the information on request to firefighters across the state.

ODOT officials say that process needs reform. But as ODOT begins working to change those disclosure rules, its officials say they no longer need any reports.

“The exact quantity of those specific shipments doesn’t impact our work,” said Shelley Snow, another ODOT spokeswoman. “Our focus is on any and all shipments traveling through the state.”

If ODOT safety inspectors need to know anything about hazardous material trends, Snow said, they can call railroads to ask.

The reports ODOT has received are the public’s only way to know how much oil moves by rail through specific corridors in Oregon. They provide the most comprehensive view of the volumes hauled through Portland, Salem, Bend, Eugene and Klamath Falls.

They’ve also been valuable for ODOT’s employees. Michael Eyer, a retired ODOT rail safety inspector, said he used the annual reports to do his job. The reports helped Eyer spot trends, see whether new hazards were moving and decide where to target his field inspections.

“It was our only institutional memory,” Eyer said. “There’s no other place to get the data, no other way to have this information.”

Railroads won’t tell the public how much hazardous material such as crude oil they move, saying it’s a security risk, even though the tank cars move openly in labeled containers.

The Oregonian in March obtained an order from the state Department of Justice that required ODOT to release the reports. Not disclosing them “could infringe on the public’s ability to assess the local and statewide risks” posed by crude oil rail shipments, a Justice Department attorney said.

The heavily redacted forms showed exactly where oil moved in the state through 2012. But ODOT said it did not have reports for 2013, a year in which oil-by-rail shipments increased 250 percent in Oregon.

The Oregonian requested 2013 records on April 14, more than a month after they were due. ODOT said it still didn’t have them and didn’t plan to seek them from railroads.

The decision typifies the unusual lengths to which ODOT goes to accommodate the railroads it regulates. Though it is supposed to be an independent safety watchdog, ODOT’s rail division treats the companies it oversees as cooperative stakeholders.

Barbara Smith Warner Barbara Smith Warner

“I’m certainly concerned by what I hear and want to find out about that,” said state Rep. Barbara Smith Warner, a Portland Democrat who’s taken an interest in oil train safety.

Eyer and another retired ODOT rail official said the agency’s move is a bad idea that could threaten public safety.

“Because of your records request, they’re trying to bail out,” Eyer said. “I don’t think for safety it’s the wisest decision. It puts us in a situation where no one knows the overall picture. Things will fall through the cracks.”

If the reports aren’t collected, new rail inspectors hired by ODOT won’t have any background material to know what’s historically moved around the state, Eyer said. “Any new inspector coming in will be dependent on the kindness of strangers,” he said.

The Oregonian Wednesday, April 23, 2014 \$1.00

SPORTS
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The result? A time-of-hazardous public concern about increasing volumes of crude oil moving by rail in Oregon, ODOT reducing the flow of information that has benefited not only the public but also its employees.
State law requires railroads to annually report to ODOT.
See **B1** online, **A12**

Fate of Cover Oregon may come down to budget
By Nick Boudrick
Money could be as important as technology on Friday when the Cover Oregon board will decide whether to give up on its big idea, unfunded health insurance exchange and switch to the federal version instead.
On Thursday, an advisory committee will hear from staff to the odds that more than two years and \$30 million worth of work by Oracle Corp., the lead information technology vendor, can be salvaged in time for the next open enrollment period, which begins in November.
Just as important, however, is the price tag for salvaging Oracle's work. That's because far-lower-than-expected enrollment numbers have Cover Oregon quietly grappling with a budget crisis.
"There's an IT decision and a business decision" he made, says Clyde Hamstreet, the opposite turnaround consultant brought in recently to head Cover Oregon. "We're just trying to figure out what our options are."
Oracle and the state have signed an agreement to get away, leaving Cover Oregon with two unappealing options.
Moving to the federal health insurance exchange means a loss of control and less capability - think of it as a two-wheel drive Chevy Nova compared with a Mercedes SUV. But it also offers certainty and a lower cost, estimated by the
See **Exchange, A12**

PERS checks start for 9,500
By Jeff Mapes
In 2013, 9,500 public employees retired and are receiving an average of 52.4 percent of their final pay through PERS. To access a spreadsheet of who is being paid what, including a former OSU train surgeon receiving more than \$22,000 a year and a former principal getting \$725,000, go to gov.oregonlive.com/pers/. You can also read more on **Page A2**.

Gay marriage gets a day in court
By Jeff Mapes
U.S. District Judge Michael McShane of Eugene will hear arguments at 1:30 p.m. Wednesday on a legal challenge to Oregon's constitutional ban on same-sex marriage. Here's a quick look at the case and Wednesday's proceedings.
What the case is about: When the U.S. Supreme Court struck down parts of the Defense of Marriage Act in 2013, it unleashed a flood of litigation in federal courts across the country. In recent months, federal judges have struck down laws prohibiting same-sex marriage in five states, largely under the reasoning that it violates the constitutional guarantee of equal protection under the law for gay and lesbian couples. Seven states plus the District of Columbia now allow same-sex marriages.
In Oregon, two lawsuits have been filed challenging the constitutional amendment passed by voters in 2004 limiting marriage to one man and one woman. Those lawsuits have been consolidated and are being jointly heard by McShane.
Unanimity of opinion: Both the plaintiffs and defendants agree that Oregon's prohibition

Index
Business... **C1** Cover... **C8** Health... **D6** Sports... **B1**
Classified Index... **C5** Editorial... **A7** Movies... **D2** State... **A4**
Comics... **D9** Food... **D1** Obituaries... **A4** Television... **D8**

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Claudia Howells, a former ODOT rail administrator, said forcing the state's lone hazardous materials inspector to make phone calls to determine what dangerous substances were moving around the state would only add to the workload of someone already responsible for overseeing tens of thousands of shipments statewide.

"Part of the function of government regulatory systems is to act as a referee and provide assurance to the public that things are as they should be," Howells said. "Right now, I have a higher level of confidence in the railroads than their regulator."