

Criteria for Reviewing an Application For a Point of Diversion Change Caused by Government Action

Any individual who holds a water right permit, certificate, or decree may request a change in point of diversion (POD) or request an additional POD in the event that government action results in or creates a reasonable expectation of a change in the surface level of a surface water source that impairs or threatens to impair access to a POD authorized under the water right. The standards and procedures used by the Water Resources Department (WRD) in evaluating an application for a point of diversion (POD) change or addition as a result of government action are described in Oregon Revised Statute (ORS) 540.510 (<http://www.leg.state.or.us/ors/>) and in Oregon Administrative Rules (OAR) Chapter 690, Division 380 (<http://www.wrd.state.or.us/OWRD/LAW/oar.shtml>).

This is a summary, prepared by the Water Resources Department, of criteria and procedures that are generally applicable to applications for a point of diversion change caused by government action. The summary is necessarily general, and may not specifically address every applicant's fact situation. The summary is intended as general guidance for applicants, and not as a substitute for reference to applicable statutes and rules.

In reviewing applications for a point of diversion (POD) change caused by government action under ORS 540.510(6), the Department will consider the following criteria:

- Government action resulting in or creating a reasonable expectation of a change in the surface level of a surface water source that impairs or threatens to impair access to a POD authorized by a water right permit, certificate, or decree [ORS 540.510(6)]
- Injury to existing water rights [OAR 690-380-0100(3)]

Processing and Reviewing an Application For a Point of Diversion Change Caused by Government Action

The Water Resources Department processes an application for POD changes due to government action using the following procedure:

1. Before changing the point of diversion, the applicant provides written notice to the WRD in the form of a completed transfer application.
2. Within 15 days of receipt of the notice, WRD gives notice of the transfer application in the department's weekly notice.
3. Within 60 days of receiving notice from the owner, the Director of the WRD approves by order the requested change unless the Director finds that the changes will result in injury to an existing water right.