



Oregon Department of Environmental Quality

Land Use Compatibility Statements and Compliance

Overview

To ensure projects and facilities are compliant with statewide planning goals, DEQ requires a Land Use Compatibility Statement. The form a source completes is filled out by the applicant (source, owner, operator, consultant, etc.) and is submitted to the local planning or zoning office. Usually, this is a city or county office where the source is or will be located. After the local office processes the form, the applicant receives one of a few things. This could be 1) a straight approval, 2) a straight denial, or 3) an approval with conditions. Air permits and Notices of Construction require a LUCS to be submitted with the application. This is how DEQ ensures compliance with statewide requirements.

DEQ's responsibility to ensure land use compliance

[OAR 340-018](#) – State Agency Coordination Program

The [Department of Land Conservation and Development](#) establishes rules for how state agencies do their jobs. They ensure [statewide planning goals](#) are achieved. According to DLCD, state agencies, like DEQ, must develop plans explaining agency actions that have a significant effect on land use. DEQ must ensure all actions comply with statewide planning goals.

If you're interested in a 'deeper dive' of the DLCD requirements, you can find more information within [OAR Chapter 660 Division 30](#) and [Division 31](#). DEQ's State Agency Coordination Plan that was submitted to DLCD can be found on the [DLCD web page](#).

Air Quality actions that need land use compliance determinations

[OAR 340-018-0030](#) - Applicability

Land use issues and [Division 18](#) requirements are most frequently considered when air quality permitting staff issue Air Contaminant Discharge Permits and when processing Notices of Intent to Construct. Noise impact boundaries are also considered for specific facilities. The SAC and Division 18 rules do not currently reference Title V permitting. Title V permitting. [OAR 340-218-0040\(3\)\(p\)](#) specifies that applications must include a land use compatibility statement to assure that activities have been reviewed and approved by the local government(s).

Determining compliance with land use goals

DEQ is committed to confirm land use compliance, as it states in [OAR 340-018-0040](#). To do this, the proposed ACDP or NC must be verified compatible with 'acknowledged comprehensive plans.' Local planning authorities check this when a LUCS is submitted. [OAR 340-018-0040\(2\)](#) states that DEQ may rely on an approved LUCS to

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1. Call the local authority that approved the LUCS and discuss the permit application and additional operations. This would ensure the activities being permitted are able to be approved.
 - a. All information is documented in the source file.
 - b. The permit writer may request that the source or applicant contact the local planning department themselves and then submit the additional information to DEQ.
2. Inform the applicant that the LUCS cannot be approved as submitted because the description of the source is not accurate.
 - a. In this case, the applicant would be required to obtain a new LUCS that appropriately explains all activities performed on site.

Cases like these are always discussed with the regional air quality manager to ensure consistency.

About source descriptions:

- If the description in a LUCS states 'gas station,' this is typically enough information for the local planning authority to understand activities that will occur on the property. While it is not a detailed explanation, this is typically considered sufficient.
- It is important that the LUCS is issued for all activities that will occur on site.

Permit renewals, permit modifications, and Notices of Intent to Construct requiring a LUCS

[OAR 340-018-0050\(2\)\(b\)](#) – Compatibility with acknowledged comprehensive plans

This information clarifies when permit renewals, permit modifications, and NCs require a LUCS. This rule is specific to ACDPs and NCs. A 'substantial modification or intensification' is clarified below:

1. Use of additional property ([OAR 340-018-0050\(2\)\(b\)\(B\)\(i\)](#))
 - a. The 'tax lot' number identified in the LUCS is where the current permit or approved NC has land use approval.
 - b. If the project, proposal, or application is for any other tax lot number, it is using additional property.
 - c. Use of additional property means expansion onto new, separate parcels of land not already identified as part of the source in the LUCS on file with the DEQ.
2. Physical expansion on the existing property ([OAR 340-018-0050\(2\)\(b\)\(B\)\(i\)](#))
 - a. Physical expansion on existing property means construction on land that had no improvements except for something on the surface (e.g., concrete or asphalt).
 - b. These changes increase the physical footprint of the facility.
3. Net Significant Emission Rate increase
 - a. This is a modification of the facility that results in a SER increase.
 - b. More information can be found in OAR 340 Division 200.

In any of the three above cases (additional property, physical expansion, or major modification/SER increase), **a new LUCS is required that details the changes.**

The source is **not required to obtain a revised LUCS for the entire facility** or operation.

Exceptions

- If the modification is specifically for pollution control equipment and there are no operational changes, a new LUCS is not required.
- This applies to permit modifications and NCs.

Contact

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