

**Routine Program Change
Seeking to Incorporate Lincoln County Comprehensive Plan and Zoning Regulations
Into the Oregon Coastal Management Program**

March 8, 2012

I. Introduction

The Oregon Department of Land Conservation and Development (DLCD) seeks to incorporate the **2012 Lincoln County Code, Chapter 1: Lincoln County Comprehensive Plan and Zoning Regulations (LCC)** into the Oregon Coastal Management Program (OCMP). DLCD requests the National Oceanic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management's (OCRM) concurrence that the incorporation is a Routine Program Change to the OCMP.

The Lincoln County Board of Commissioners enacted the LCC in 1984, and OCRM approved the incorporation of the LCC into the OCMP in 1985. Since that time the Lincoln County Board of Commissioners has periodically approved updates to the LCC. DLCD is now submitting the current version of the plan, which encompasses all, for OCRM's approval. This current version of the plan and zoning regulations will replace the 1984 version that OCRM previously approved.¹

Recognizing the interconnected relationship between local comprehensive plans and Oregon's land use planning system and statewide planning goals, which are incorporated as foundational part of Oregon's federally approved coastal management program,² this analysis links the LCC provision with the applicable planning goal that the provision implements. Section II.A of the analysis discusses Oregon's land use planning system and explains the relationship between statewide planning goals and local comprehensive plans. Section II.B discusses the LCC provisions that DLCD seeks to incorporate as enforceable policies, and identifies how the provisions are based on and implement applicable statewide planning goals. Section II.C analyzes the five CZMA program approvability areas potentially impacted, and determines that this request qualifies as a routine program change. Section II.D discusses the Lincoln County Estuary Management Plan, which is an integral part of Lincoln County's land use planning authority, and analyzes the one change that DLCD seeks to incorporate. Finally, Section III contains a table lists all LCC provisions Oregon is seeking to incorporate into the OCMP as enforceable policies(details of the provisions are discussed in section II.B).

II. Analysis of Incorporation

II.A. Discussion of Oregon's land use planning system

ORS Chapter 197, Comprehensive Land Use Planning Coordination, governs Oregon's land use planning system and sets the stage for state and local governments to share the job of land use

¹ Because the county has made only a few minor updates to the Lincoln County Estuary Management Plan since OCRM approved its incorporation in 1984, DLCD does not seek to replace the previously-approved, 1982 version on file with OCRM. The Estuary Plan is discussed in detail in Section II.D, below.

² ORS Chapter 197, which OCRM has approved as part of the Oregon Coastal Management Program, provides the framework for Oregon's land use planning system; see discussion of statewide planning goals on page 4.

planning in Oregon. ORS Chapter 197 directs the state, through the Land Conservation and Development Commission (LCDC), to adopt statewide planning goals and set overall rules for planning decisions. Local governments, such as Lincoln County, are to adopt plans that meet the statewide requirements and make the day-to-day land use decisions in conformance with the state-approved and goal-based plans. This partnership creates a close linkage between local comprehensive plans, such as the LCC, and the statewide planning goals.

The nineteen statewide planning goals establish Oregon's standards for comprehensive planning. The goals express the state's policies on land use and set requirements for certain land use decisions. The goals also set standards for how certain types of land are planned and zoned, for example Goal 18's standards for development on various types of dunes. Oregon has adopted the statewide planning goals as administrative rules (Oregon Administrative Rules Chapter 660, Division 015). The full text of the nineteen statewide planning goals is available online at: <http://www.oregon.gov/LCD/goals.shtml>, and a summary follows:

Goal 1: CITIZEN INVOLVEMENT Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program and requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.

Goal 2. LAND USE PLANNING Goal 2 outlines the basic procedures of Oregon's statewide planning program. It states that land use decisions are to be made in accordance with a comprehensive plan, and that local jurisdictions must adopt suitable "implementation ordinances" to put the plan's policies into effect.

Goal 3. AGRICULTURAL LANDS Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" agricultural lands through farm zoning.

Goal 4. FOREST LANDS Goal 4 defines forest lands and requires counties to inventory those lands and adopt policies and ordinances that will "conserve forest lands for forest uses."

Goal 5. OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.

Goal 6. AIR, WATER AND LAND RESOURCES QUALITY Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

Goal 7. AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development in those areas.

Goal 8. RECREATION NEEDS This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for recreation.

Goal 9. ECONOMY OF THE STATE Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

Goal 10. HOUSING This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing.

Goal 11. PUBLIC FACILITIES AND SERVICES Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection.

Goal 12. TRANSPORTATION This goal aims to provide "a safe, convenient and economic transportation system."

Goal 13. ENERGY Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

Goal 14. URBANIZATION This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land."

Goal 15. WILLAMETTE GREENWAY Goal 15 is not applicable to the coastal zone.

Goal 16. ESTUARINE RESOURCES Goal 16 requires local governments to classify Oregon's 22 major estuaries into four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those areas.

Goal 17. COASTAL SHORELANDS Goal 17 defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources in that area are to be managed. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water related" uses.

Goal 18. BEACHES AND DUNES Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active

foredunes, but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

Goal 19. OCEAN RESOURCES Goal 19 aims “to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf.” It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.

The statewide planning goals, along with local comprehensive plans and networked statutory authorities, form the basis of Oregon’s Coastal Management Program. The 1977 document approving the OCMP recognizes that “the central authority by which Oregon will implement the program is SB 100³” (Part IV of which directed the preparation and adoption of statewide planning goals to guide cities and counties in preparing, adopting and implementing comprehensive plans). DLCD has submitted these statewide planning goals and any subsequent revisions to OCRM throughout the years as program changes, and they have been incorporated as part of Oregon’s federally approved coastal management program.

The statewide planning goals are implemented through local comprehensive planning. Each city and county in Oregon must adopt a comprehensive plan and the zoning and land-use regulations necessary to put the plan into effect. Plans must address all applicable topics laid out in the planning goals, and as such must include elements for coastal resources such as estuaries, shorelands, and beaches and dunes. Plans generally contain three main components: inventories, policies, and implementing measures. Inventories contain facts about land use, resources, and development trends within the planning area, and provide the basis for plan policies. Policies are the overarching statements that direct subsequent land use decisions in that jurisdiction. Implementing measures are the ordinances and regulations used to carry out the plan policies, and provide the specific criteria for local land use authorizations. Implementing measures include zoning ordinances, land division ordinances, and other regulations that directly regulate land use activities.

Once a jurisdiction has woven together these inventories, policies, and implementing measures to draft a local comprehensive plan, the jurisdiction submits the plan to LCDC. LCDC reviews the plan to ensure that it is consistent with the Statewide Planning Goals. When LCDC officially approves a local plan, the plan is said to be *acknowledged*, and becomes the controlling land use document for that jurisdiction.

LCDC acknowledged the LCC in 1982, signifying that the plan is consistent with and implements required policies (and some suggested guidelines) of the statewide planning goals. Recognizing that the LCC implements statewide planning goals that OCRM has approved as part of the OCMP, DLCD seeks to incorporate specific provisions of the LCC as enforceable policies. The analysis below discusses the provisions that DLCD seeks to incorporate as enforceable policies, and identifies how the provisions implement the applicable planning goals.

³ Codified at Oregon Revised Statutes Chapter 197

II.B. LCC Sections Incorporated as Enforceable Policies

While DLCD seeks to incorporate the entire 2010 version of the LCC into the OCMP, DLCD has identified specific sections of the LCC to be used as “enforceable policies” for federal consistency purposes. As required by 16 USC 1453(6a) and OCRM guidance, the enforceable policies are legally binding and contain standards of sufficient specificity to guide private and public uses. These policies, contained in discrete sections of the LCC, are outlined in the attached table (Section III) and discussed in further detail below.

1. Comprehensive Plan

Sections 1.0001 through 1.0190 of the LCC comprise the Comprehensive Plan. These sections articulate Lincoln County’s land use planning goals and land use planning policies, which help direct future growth and development in the county. Although the zoning code contains the majority of the County’s enforceable policies, certain provisions of the comprehensive plan may come into play in consistency decisions and are not captured elsewhere. The DLCD seeks to include the following sections as enforceable policies:

LCC 1.0030(4) Urbanization Policies: Identifies allowances for developments that are within urban growth boundaries, but outside of city limits.

Implements Goal 14, Urbanization

LCC 1.0105(4) Beaches and Dunes Policies: Specifies that beachfront protective structures may be permitted only where development existed on January 1, 1977, unless the County has adopted an exception to Goal 18 as part of the comprehensive plan.

Implements Goal 18, Beaches and Dunes

LCC1.0145(15), (18), (31) Transportation Policies: Requires that public roads providing access to proposed developments must be improved to minimum County standards; requires that set-backs for development must provide for the planned right-of-way width; and details access requirements for lands inside and outside of the urban growth boundary.

Implements Goal 12, Transportation

LCC 1.0185(8) Public Facilities Policies: Specifies that the County’s overall land use classification system shall include the categories of *Rural Community Centers and Rural Service Centers* and *Dispersed Residential*, and sets policies for residential density, facilities and services, and water and sewer systems within those areas.

Implements Goal 11, Public facilities and Services

LCC 1.0190(1)-(12) Plan Designations: Sets out the plan designations that form the basis for land use planning in Lincoln County. Briefly describes the characteristics of each designation and details primary and secondary uses. Designations include: Forest Lands; Agricultural Lands; Dispersed Residential; Rural Community Centers; Rural Service Center; Suburban Residential; General Commercial; Industrial; Water Dependent; Water Dependent/Water Related; Coastal Shorelands; and Estuarine Management Units.

Implements multiple goals

2. Zoning and Zones

Sections 1.1102 through 1.1395 of the LCC lay out the zoning scheme and classify the uses allowed in the various zones. The standards for allowable uses within specific zones form the basis for how Lincoln County implements the statewide planning goals. These provisions are rooted in the overall planning framework envisioned by Goal 2, and implement multiple goals. The DLCDD seeks to include the following sections as enforceable policies:

LCC 1.1115(1)-(97) Definitions: Defines the terms used in the Chapter. The definitions clarify and provide context for many of the sections containing enforceable policies.

While this section does not implement any particular planning goal or goals, it is necessary to interpret and apply the following sections.

LCC 1.1301(1)-(9) Classification of Zones and LCC 1.1303(1)-(2) Location of Zones: LCC 1.1301 establishes residential, rural residential, commercial, industrial, marine, and resource zones, as well as establishing overlays for public facilities, special zones, and floodplain zones in Lincoln County. LCC 1.1303 incorporates into the LCC the “Lincoln County Comprehensive Plan and Zoning Maps,” which indicate the boundaries for the zones listed in LCC 1.1301. The specifics of these zones, and the goals they implement, are discussed in further detail in the following sections.

As with the definitions, this section is necessary to implement the following sections.

LCC 1.1303(1)-(2) Location of Zones: Specifies that the boundaries for the zones listed in LCC 1.1301 through 1.1399 are indicated on maps entitled “Lincoln County Comprehensive Plan and Zoning Maps,” which are enforceable mechanisms necessary for interpreting the zoning code. Electronic maps are available online at <http://www.co.lincoln.or.us/planning/zoning.html>.

LCC 1.1310(1)-(3) Residential Zone R-1,
LCC 1.1315(1)-(3) Residential Zone R-1-A,
LCC 1.1320(1)-(3) Residential Zone R-2,
LCC 1.1330(1)-(3) Residential Zone R-3,
LCC 1.1340(1)-(3) Residential Zone R-4,
LCC 1.1345(1)-(3) Rural Residential Zone RR-2,
LCC 1.1355(1)-(3) Rural Residential Zone RR-5,
LCC 1.1357(1)-(3) Rural Residential Zone RR-10,
LCC 1.1360(1)-(3) Tourist Commercial Zone C-T,
LCC 1.1361(1)-(3) Retail Commercial Zone C-1,
LCC 1.1362(1)-(2) General Commercial Zone C-2,
LCC 1.1368(1)-(3) Planned Marine Zone M-P:

LCC 1.1310 through 1.1362 and 1.1368 set forth the zoning regulations that apply to residential, rural residential, commercial, and planned marine zones in Lincoln County. All of the sections contain regulations specifying Uses Permitted Outright, Conditional Uses Permitted, and Standards. The uses permitted outright are just that – uses that the county permits outright, subject to applicable provisions of the LCC. Conditional uses are those uses that the county may permit in that zone, subject to further review and applicable provisions of the LCC. The standards section sets forth criteria that uses in a particular zone must meet. The standards include provisions for things such as setbacks, building heights, and lot size dimensions.

LCC 1.1364(1)-(5) Planned Industrial Zone I-P: The zoning regulations that apply to LCC 1.1364 fall into the same categories of uses permitted outright, conditional uses permitted, and standards, with the addition of special standards, which the Planning Department or Commission shall apply to all conditional uses in the planned industrial zone.

LCC 1.1367(1)-(3) Marine Waterway Zone M-W: The zoning regulations of 1.1367 incorporate the Lincoln County Estuary Management Plan by reference, and apply the estuary plan's requirements to determine uses permitted outright and conditional uses permitted in the marine waterway zone. Special standards apply to conditional use applications, requiring the Planning Department or Commission to determine whether the use is compatible with the management objective and policies of the estuary management unit classification, whether the use complies with all policies specific to the individual management unit, and whether any additional conditions are necessary. The estuary plan is an approved part of the OCOMP.

LCC 1.1371(1)-(5) Definitions for LCC 1.1372 to 1.1375: Defines the terms used in LCC 1.1372 to 1.1375. While this section does not implement any particular planning goal or goals, it is necessary to interpret and apply the following sections.

LCC 1.1373(1)-(9) Agricultural Conservation Zone A-C: Sets forth the zoning standards for land uses in agricultural conservation zones. Specifies uses permitted outright, conditional uses permitted, additional conditional uses permitted subject to certain state regulations, requirements for dwellings customarily provided in conjunction with farm use and for dwellings not provided in conjunction with farm use, requirements for conditional uses subject to certain state regulations, lot size standards, and dimensional standards.

LCC 1.1375(1)-(9) Timber Conservation Zone T-C: Sets forth the zoning requirements for land uses in timber conservation zones. Specifies uses permitted outright, conditional uses permitted, limitations on conditional uses, lot size standards, non-forest dwellings, general requirements for all dwellings, siting and fire protection standards for dwellings, fire safety design standards for roads, and dimensional standards.

LCC 1.1377(1)-(2) Public Facilities Zone P-F: Sets forth the uses permitted outright, such as public parks, schools and hospitals, and the conditional uses permitted in public facilities zones.

LCC 1.1380(2)-(4) Planned Development Zone PD: Sets forth requirements that govern planned developments. Includes general requirements, requires a preliminary plan, specifies the content of the plan and the plan review criteria, and requires a final plan upon completion of all conditions.

LCC 1.1381(2)-(5) Coastal Shorelands (CS) Overlay Zone: Implements the LCC's Coastal Shorelands policies. Specifies requirements to be applied to areas within the county's coastal shorelands boundary in addition to the provisions of the underlying zone. Requires a detailed site plan demonstrating how the proposed activities will conform to each of the applicable coastal shorelands standards. Standards govern riparian vegetation, significant wildlife habitat

and major marshes, coastal headlands and exceptional aesthetic resources, historic and archeological sites, land divisions, and shoreland stabilization.

LCC 1.1384(2)-(5) Dredged Material Disposal Site (DMDS) Overlay Zone: Protects dredged material disposal sites from incompatible development by specifying permitted uses, sets standards requiring that the proposed use must not prevent future use of the site for dredged material disposal or that an alternate site be available, and sets procedural requirements for approving development in the overlay zone.

LCC 1.1395(2)-(13) Flood Hazard Overlay Zone: Sets additional requirements and limitations for development in areas of “special flood hazard” as identified by the Federal Insurance Administration’s report and accompanying Flood Insurance Rate Maps (FIRM). Applies specific development standards for various FIRM zones and requires a Floodplain Development Permit from Lincoln County.

3. Special Requirements

Sections 1.1401 through 1.1530 of the LCC set special requirements such as requirements for signs, bicycle parking, and pedestrian circulation. DLCDC does not seek to incorporate any of these provisions as enforceable policies.

4. Conditional Uses

Sections 1.1601 through 1.1630 of the LCC govern conditional uses, or those uses that require special consideration prior to their being permitted in a particular zone. Sections 1.1601 through 1.1620 are administrative in nature, and are addressed in section II.B.6 of this analysis, below. Section 1.1630 contains standards and procedures governing conditional uses, which DLCDC seeks to include as an enforceable policy:

LCC 1.1630 Standards and Procedures Governing Conditional Uses: Establishes standards that conditional uses must meet, including general standards and standards specifically for: lodges and resorts; public utility facilities; mobile home and recreational vehicle parks, solid waste disposal and transfer stations; extraction and processing of rock, sand, gravel, or other earth products; uses involving wetland filling, dredging, draining, disposal of dredging spoils, and similar activities, or construction of wharfs, bulkheads or similar devices; uses involving construction, addition, or reconstruction of piers, docks, boathouses, or similar facilities; outdoor recreation developments; and wireless communication facilities. The standards set forth in this section apply to the conditional uses contemplated in the applicable zones of LCC 1.1301 through 1.1395

Implements multiple goals, including: Goal 2, Land Use Planning; Goal 3, Agricultural Lands; Goal 4, Forest Lands; Goal 8, Recreation Needs; Goal 11, Public Facilities and Services; Goal 16, Estuarine Resources; Goal 17, Coastal Shorelands; and Goal 18, Beaches and Dunes.

5. Development Guidelines

Sections 1.1910 through 1.1955 of the LCC establish Lincoln County’s development guidelines. The guidelines provide procedures that enable the county to “secure the desirable attributes of

the county from depletion” and “protect against hazardous or otherwise undesirable developments.” The DLCD seeks to include the following sections as enforceable policies:

LCC 1.1925 Geologic Hazards: Establishes guidelines and requirements for development in hazardous areas. Establishes the primary areas of concern as areas with active landslides, high ground water, beach erosion, and other hazards identified by the Oregon Department of Geology and Mineral Industries. Requires development in geologic hazard areas to meet certain standards, including setbacks for ocean front lots, site-specific geotechnical analysis for lands within 100 feet of a geologically recent landslide or for major developments on the site of massive ancient landslides, geotechnical or engineering analysis for certain developments in high groundwater areas, and detailed soil analysis in areas known to have weak foundation soils.

Implements Goal 7, Areas Subject to Natural Disasters and Hazards

LCC 1.1930 Beaches and Dunes: Establishes guidelines and requirements for development on beaches and dunes. Sets standards that the county shall apply when reviewing land use actions in sand areas. Standards include limiting development on certain types of dunes (conditionally stable dunes subject to ocean undercutting or wave overtopping and interdune areas subject to ocean flooding), requiring a revegetation plan prior to development, limiting foredune breaching, and requiring certain reports prior to using ground water sources.

Implements Goal 18, Beaches and Dunes

LCC 1.1935 Scenic Areas, Historic and Archeological Sites, and Fish and Wildlife Habitats: Establishes guidelines that the county shall recognize when reviewing land use actions for development in scenic areas, historic and archeological sites, and fish and wildlife habitats. The guidelines include a variety of considerations, including maintaining natural vegetation, limiting excavation and filling to those areas where alteration to the natural terrain is necessary, protecting views, protecting water quality and minimizing structural encroachment into natural waterways and drainages, maintaining natural riparian vegetation, and protecting nesting areas and rookeries.

Implements Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources

LCC 1.1940 Airport Areas: Establishes development guidelines and standards that the county shall apply when reviewing land use actions for development in close proximity to airports, particularly in approach pattern areas. Standards include airport area height limitations, use restrictions, and marking and lighting. Contains provisions for future uses, existing uses, exceptions, and variances. Also establishes special airport zones that are further limited or restricted, including approach zones, clear zones, and zones for moderate noise impact and substantial noise impact.

Implements Goal 12, Transportation

LCC 1.1945 Otter Rock Wellhead Protection Area: Establishes development guidelines and standards that the county shall apply when reviewing proposed development in the Otter Rock Water District Wellhead Protection Area. Standards include prohibiting on-site sewage disposal systems where a public or community sewage system can serve the development, establishing a minimum lot size for lots not served by a public or community sewage disposal system, and prohibiting conditional uses which involve the use of hazardous or toxic materials.

Implements Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources

LCC 1.1955 Traffic Impact Mitigation: Establishes development guidelines that the county shall apply when reviewing development proposals identified as creating substantial increases in traffic or creating other potentially adverse impacts or burdens on transportation facilities. Establishes standards for when a proposal requires a traffic impact study, the standards for approval or denial based on the study, and the authority to impose conditions or limitations on a proposed development to mitigate adverse traffic impacts.

Implements Goal 12, Transportation

6. Supporting Administrative Policies

Sections 1.1201 through 1.1285 set forth the administrative requirements and procedures for land use planning in Lincoln County. These administrative functions, such as application review procedures and fee schedules, govern the process by which Lincoln County applies the enforceable policies identified in this document. Likewise, sections 1.1601 through 1.1620, governing the administration of conditional uses; 1.701, governing non-conforming uses; 1.1801 through 1.1830, governing variances; and 1.3210 through 1.3252, governing land divisions, are administrative in nature yet essential to Lincoln County's application of the enforceable policies to specific proposed actions.

While not enforceable policies per se, these requirements and procedures form the enforceable mechanisms that guide Lincoln County's land use review and permitting processes, and thus provide the context for how the County applies the enforceable policies outlined above.

II.C. This Action is a Routine Program Change

The incorporation of the LCC into the OCMP does not substantially alter any of the five program areas detailed in 15 CFR 923:

1. Uses subject to management (Subpart B)

This action does not substantially change the uses subject to management that are set forth in the OCMP (navigation and transportation; residential/urban/industrial, including energy production; agriculture and forestry; recreation; fish and wildlife production and utilization; public facilities; mining and minerals; and restoration) or those that were originally included in the Lincoln County Comprehensive Plan when OCRM first approved it. The State of Oregon requires the LCC to implement Oregon's statewide planning goals, which require local jurisdictions to set standards for various uses, including those set forth in the OCMP. Because the uses permitted by the LCC must be consistent with the statewide planning goals and because Lincoln County has not added any new uses, incorporation of the updated LCC into the OCMP merely refines and does not substantially change the uses subject to management.

2. Special management areas (Subpart C)

This action does not change the criteria for designating areas of particular concern, or areas for preservation or restoration. Statewide planning goals 16 through 18 set the criteria and procedures for establishing and managing estuarine areas (Goal 16), coastal shorelands (Goal 17), and beaches and dunes (Goal 18). The LCC merely sets policies and standards for designating and managing these areas within Lincoln County.

3. Boundaries (Subpart D)

This action applies only to lands under the jurisdiction of Lincoln County. It does not affect Oregon's inland or seaward coastal zone boundary, nor does it change the status of excluded lands.

4. Authorities and organization (Subpart E)

This action does not change Oregon's authority or organization, nor does it alter Oregon's administration of the OCMP. Oregon's land use system and statewide planning goals establish criteria and standards for local planning, and the LCC implements those standards in Lincoln County.

5. Coordination, public involvement and national interest (Subpart F)

This action does not change any coordination, public involvement, or national interest provisions of the OCMP.

II.D. Lincoln County Estuary Management Plan

OCRM approved the Lincoln County Estuary Management Plan (hereinafter estuary plan or plan) as part of the original Lincoln County submission in 1984. The estuary plan represents an overall management scheme for the four major⁴ and two minor⁵ estuaries under Lincoln County's jurisdiction, and provides the foundation for the estuarine resource policies set forth in LCC 1.0085 and the marine waterway zoning regulations set forth in LCC 1.1367.

The estuary plan contains comprehensive provisions to guide the development and conservation of Lincoln County's estuaries, with the provisions set forth in three tiers of increasing specificity. The first tier, discussed in Part II of the plan, contains Overall Management Policies. These policies apply to the entire county, and set policies such as development priorities and general requirements for dredging and/or filling of estuaries. The second tier, discussed in part III of the plan, contains Sub-Area Policies for the Yaquina Bay estuary. Because of the size and complexity of the Yaquina estuary, the plan divides the area into seven sub-areas and establishes policies that apply to each specific sub-area. For example, the Yaquina sub-area policies state, in part, that the primary objective in the Newport sub-area shall be to manage for the development of deep draft navigation, commercial fishery support facilities and other water dependent uses, and that non-water related uses shall not occupy estuarine surface area or locate on shorelands with direct water access.

The third, and most specific, policy tier is set out in Part IV, which establishes Management Units, and Part VI, which describes each management unit and lays out permitted uses in a Permitted Use Matrix for each unit. Management units are discrete geographic areas that are given a management classification (natural, conservation, or development) based on the individual unit's resource characteristics. Each classification includes a management objective (contained in part IV), which is implemented by a permitted use matrix that specifies which uses and activities are permitted, permitted conditionally, or not allowed in each management unit (part VI).

⁴ Salmon River, Siletz Bay, Alsea Bay, and Yaquina Bay estuaries

⁵ Big Creek and Beaver Creek estuaries

In addition to the above provisions, the estuary plan also contains detailed development standards for fourteen categories of estuarine uses/activities⁶ (Part V), policies pertaining to restoration and mitigation (Part VII), a planning strategy to accommodate log storage and transportation while minimizing adverse resource impacts (Part VIII), and a summary of projected development needs and potential development sites (Part IX). Part X lays out the administrative procedures to implement the plan. Appendix A includes definitions.

In contrast with the rest of the comprehensive plan and zoning regulations, the estuary plan has received only one minor update applicable to future federal consistency reviews since OCRM approval. That update, to Appendix A: Definitions, slightly alters the definition of “bridge crossings.” The original definition stated that bridge maintenance or replacement could not increase the number of travel lanes. The amendment clarifies that the number of travel lanes may increase if the maintenance or replacement does not cause an additional loss of estuarine area. Because this one update is easy to identify, as opposed to the myriad of updates to the LCC, DLCD seeks to simply maintain the previously approved estuary plan and incorporate the change indicated below as a routine program change.

Amended definition of “Bridge Crossings,” page 181 of the Lincoln County Estuary Management Plan (new text underlined):

“A structure spanning a waterway designed to carry automobile, railroad, and/or pedestrian traffic across the waterway. Maintenance or replacement of a bridge crossing means repair, restoration, or in-kind replacement such that the number of travel lanes is not increased, unless the added lanes will not result in an additional loss of estuarine marsh.”

This amendment is a routine program change because it merely refines a definition and does not alter any of the five program areas. It does not change the uses subject to management, it does not change special management areas, it does not change Oregon’s coastal zone boundaries, it does not alter Oregon’s authorities or organization, and it does not change any coordination, public involvement, or national interest provisions.

⁶ Structures, dredging, shoreline stabilization, fill, marina and port activities, aquaculture, mineral and aggregate extraction, dikes, outfalls, submerged crossings, restoration, excavation, dredge material disposal, and log handling.

III. Enforceable Policies Table

Changes to the OREGON COASTAL MANAGEMENT PROGRAM				
The OREGON COASTAL MANAGEMENT PROGRAM (OCMP) seeks to incorporate the entire Lincoln County Code (LCC), Chapter 1: Lincoln County Comprehensive Plan and Zoning Regulations into its coastal management program. The following table identifies specific provisions that DLCD seeks to incorporate as enforceable policies, which DLCD will use for Federal Consistency purposes.				
State/Local Legal Citation	Name/Description of State or Local Law/ Regulation/Policy/ Program Authority or Change	Enforcement Mechanism(s)	Date Adopted by State	Date Effective in State
ADDED:			mm/dd/yyyy	mm/dd/yyyy
LCC Chapter 1: Comprehensive Plan and Zoning Regulations (2012)*	* DLCD seeks to incorporate the entire 2012 version of LCC Chapter 1 into the OCMP. However, DLCD only seeks to incorporate the provisions listed below as enforceable policies.		1984	1985-2012
(COMPREHENSIVE PLAN)				
LCC 1.0030 (4)	Urbanization Policies	County land use planning/permit process (LCC 1.1120 ¹)	1984	1985-2012
LCC 1.0105 (4)	Beaches and Dunes Policies	Planning/permit process	1984	1985-2012
LCC 1.0145 (15), (18), (31)	Transportation Policies	Planning/permit process	1984	1985-2012
LCC 1.0185 (8) [omitting 1.0185(8)(a) (E)]	Public Facilities policies	Planning/permit process	1984	1985-2012
LCC 1.0190 (1) - (12)	Plan Designations	Planning/permit process	1984	1985-2012
				1985-2012
(ZONING)				1985-2012
LCC 1.1115 (1) - (97)	Definitions	Planning/permit process	1984	1985-2012
				1985-2012
(ZONES)				1985-2012
LCC 1.1301 (1) - (9)	Classification of Zones	Planning/permit process	1984	1985-2012
LCC 1.1303 (1) - (2)	Location of Zones (electronic maps available on the county website at http://www.co.lincoln.or.us/planning/zoning.html)	Planning/permit process	1984	1985-2012
LCC 1.1310 (1) - (3)	Residential Zone R-1	Planning/permit process	1984	1985-2012
LCC 1.1315 (1) - (3)	Residential Zone R-1-A	Planning/permit process	1984	1985-2012
LCC 1.1320 (1) - (3)	Residential Zone R-2	Planning/permit process	1984	1985-2012

LCC 1.1330 (1) - (3)	Residential Zone R-3	Planning/permit process	1984	1985-2012
LCC 1.1340 (1) - (3)	Residential Zone R-4	Planning/permit process	1984	1985-2012
LCC 1.1345 (1) - (3)	Rural Residential Zone RR-2	Planning/permit process	1984	1985-2012
LCC 1.1355 (1) - (3)	Rural Residential Zone RR-5	Planning/permit process	1984	1985-2012
LCC 1.1357 (1) - (3)	Rural Residential Zone RR-10	Planning/permit process	1984	1985-2012
LCC 1.1360 (1) - (3)	Tourist Commercial Zone C-T	Planning/permit process	1984	1985-2012
LCC 1.1361 (1) - (3)	Retail Commercial Zone C-1	Planning/permit process	1984	1985-2012
LCC 1.1362 (1) - (2)	General Commercial Zone C-2	Planning/permit process	1984	1985-2012
LCC 1.1364 (1) - (5)	Planned Industrial Zone I-P	Planning/permit process	1984	1985-2012
LCC 1.1367 (1) - (3)	Marine Waterway Zone M-W	Planning/permit process	1984	1985-2012
LCC 1.1368 (1) - (3)	Planned Marine Zone M-P	Planning/permit process	1984	1985-2012
LCC 1.1371 (1) - (5)	Definitions for LCC 1.1372 to 1.1375 (Agricultural Conservation and Timber Conservation Zones)	Planning/permit process	1984	1985-2012
LCC 1.1373 (1) - (9) [omitting 1.1373(2)(c)(E)]	Agricultural Conservation Zone A-C	Planning/permit process	1984	1985-2012
LCC 1.1375 (1) - (9) [omitting 1.1375(6)(a), (e), (i), (j), (k)]	Timber Conservation Zone T-C	Planning/permit process	1984	1985-2012
LCC 1.1377 (1) - (2)	Public Facilities Zone P-F	Planning/permit process	1984	1985-2012
LCC 1.1380 (2) - (4) [omitting 1.1380(3)(c)(D)]	Planned Development (PD)	Planning/permit process	1984	1985-2012
LCC 1.1381 (2) - (5)	Coastal Shorelands (CS) Overlay Zone	Planning/permit process	1984	1985-2012
LCC 1.1384 (2) - (4)	Dredged Material Disposal Site (DMDS) Overlay Zone	Planning/permit process	1984	1985-2012
LCC 1.1395 (2) - (13) [omitting 1.1395(5), (9)(a), (10)(a)]	Flood Hazard Overlay Zone	Planning/permit process	1984	1985-2012
				1985-2012
(CONDITIONAL USES)				1985-2012
LCC 1.1630 (1) – (32) [omitting 1.1630(6)(h-i), (3)(g)(I), (14)(k), (16)(i-j),	Standards and Procedures Governing Conditional Uses	Planning/permit process	1984	1985-2012

(24)(c), (27)(d)]				
				1985-2012
(DEVELOPMENT GUIDELINES)			1984	1985-2012
LCC 1.1925 (3)	Geologic Hazards	Planning/permit process	1984	1985-2012
LCC 1.1930 (3)	Beaches and Dunes	Planning/permit process	1984	1985-2012
LCC 1.1935 (3)	Scenic Areas, Historic and Archaeological Sites, and Fish and Wildlife Habitats	Planning/permit process	1984	1985-2012
LCC 1.1940 (3)	Airport Areas	Planning/permit process	1984	1985-2012
LCC 1.1945 (3) [omitting 1.1945(3)(d)]	Otter Rock Wellhead Protection Area	Planning/permit process	1984	1985-2012
LCC 1.1950 (2)	Agate Beach Landfill and Transfer Station	Planning/permit process	1984	1985-2012
LCC 1.1955 (2)	Traffic Impact Mitigation	Planning/permit process	1984	1985-2012
MODIFIED:				
Lincoln County Estuary Management Plan, Appendix A	Definition of “Bridge Crossings”	Planning/permit process	1982	1986
DELETED:				
LCC Chapter 1: Comprehensive Plan and Zoning Regulations (1984)	Lincoln County Code (1984)		1984	1984

¹ **LCC 1.1120 Conformance to Chapter Requirements**

(1) All state, county, and local officials, departments and employees vested with authority to issue permits, licenses, certificates shall adhere to and require conformance with the provisions of this chapter.

(2) No land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, located, moved, extended, enlarged, structurally altered, or used or occupied, except in conformity with this code.

(3) No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of this code.