

# Public Comment Scoping Document for a Marine Spatial Plan on Washington's Pacific Coast

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## Summary

Washington's Pacific Coast is potentially adversely affected by increasing pressures on the resources in this area, conflicts among uses, and proposed new uses. In addition, multiple, overlapping jurisdictions and authorities creates challenges for coordinated decision-making and proactive planning. Under RCW 43.372, the development of a Marine Spatial Plan (MSP) is intended to address these issues by providing a non-regulatory framework for coordinating information and decisions. This state law requires an interagency team of state natural resource agencies to coordinate the development of the MSP.

Washington is using an existing interagency team, the State Ocean Caucus, for this planning process. The team is chaired by the Governor's office and coordinated by the Department of Ecology (Ecology). Ecology is the designated lead for coordinating the development of the MSP. Other State Ocean Caucus agencies involved in developing the MSP include: Washington Department of Natural Resources, Department of Fish and Wildlife, Washington Sea Grant and State Parks and Recreation Commission. The planning process will also involve and engage coastal stakeholders, the public and local, tribal, and federal governments. Once the MSP is completed, Ecology will submit it to the National Oceanic and Atmospheric Administration for its review and approval for incorporation into Washington's federally-approved coastal zone management program under the federal Coastal Zone Management Act.

Under the State Environmental Policy Act (SEPA), a non-project EIS will provide a general evaluation of the alternatives and potential significant adverse impacts associated with developing a Marine Spatial Plan (MSP) for Washington's Pacific Coast. Additional project-level environmental review under NEPA and SEPA would occur when individual projects or activities are proposed (see the "potential activities" section below for examples).

More information on marine spatial planning and this public comment opportunity may be found at: <http://www.msp.wa.gov/news>

## Scoping questions

As part of the State Environmental Policy Act (SEPA), scoping is conducted to receive public and agency comments on the scope of an upcoming Environmental Impact Statement (EIS). This scoping document provides important background, context, and draft proposed language to assist those wishing to provide comments. We strongly encourage those commenting to review the entire document prior to preparing and submitting their comments. Ecology is seeking comments on:

- Purpose of and need for a Marine Spatial Plan, including comments on the draft goals and objectives, and rationale for any suggested changes based on the criteria.

- Geographic scope, or boundary, of the plan’s study area and rationale for particular boundary based on the criteria.
- Potential activities to address in the plan.
- Specific metrics for measuring progress toward achieving draft objectives.
- Scope of program-level environmental studies or other studies to conduct.
- Substantial issues and concerns that should be addressed in the Marine Spatial Plan and EIS.
- Potential impacts (beneficial, adverse, direct, indirect, and/or cumulative) and mitigation.

Written comments will be accepted until **5 pm, September 23, 2013**. Send written scoping comments to: [MSPComments@ecy.wa.gov](mailto:MSPComments@ecy.wa.gov)

or

Department of Ecology  
SEA Program  
PO Box 47600  
Olympia, WA 98504-7600

## Background

Under RCW 43.372, marine spatial planning is defined as a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives. Often this type of planning is done to reduce conflicts among uses, to reduce environmental impacts, to facilitate compatible uses, to align management decisions, and to meet other objectives determined by the planning process.

To assist with the marine spatial planning process, Washington Sea Grant and the State Ocean Caucus convened a series of workshops March through May 2013, to develop draft goals, objectives and boundary for Washington Coast’s Marine Spatial Plan (MSP) and to improve communication and coordination among the groups involved in the MSP planning process. These workshops brought together government officials and local stakeholders with a vested interest or management authority over Washington’s marine resources and waters. Representatives from local government, state and federal agencies, tribes and the Washington Coastal Marine Advisory Council (WCMAC) attended. WCMAC is a diverse coastal stakeholder group established by Ecology to provide recommendations to state agencies on ocean policy, including marine spatial planning.<sup>1</sup>

As future partners in the successful implementation of MSP, this representative group was invited to provide valuable planning perspectives and expertise in the development of MSP goals and objectives and to begin developing a joint vision for MSP, capable of aligning the plan across jurisdictions.<sup>2</sup> The draft results from this workshop series are now being used to engage the broader public in the next

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<sup>1</sup> Recently adopted law establishes this group in the Governor’s office. The law goes into effect July 28, 2013. Information on the Ecology-formed group is available at:

<http://www.ecy.wa.gov/programs/sea/ocean/advisorycouncil.html>

<sup>2</sup> Note: the participation of any particular entity in these workshops does not constitute a legal position or formal adoption by that entity of the draft goals, objectives or boundary.

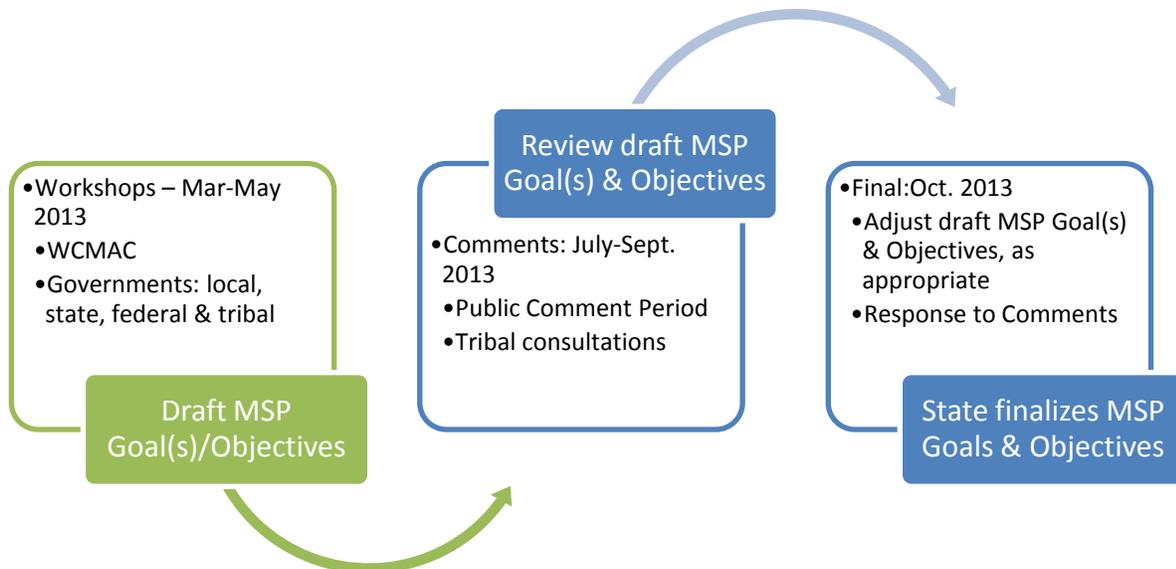
phase of scoping the MSP – as described by the diagram below.<sup>3</sup> A summary report and detailed notes from the workshop series is available online:

Summary report:

[http://www.msp.wa.gov/wp-content/uploads/2013/07/MSP\\_Workshop\\_Summary\\_Report\\_2013.pdf](http://www.msp.wa.gov/wp-content/uploads/2013/07/MSP_Workshop_Summary_Report_2013.pdf)

Workshop notes:

[http://www.msp.wa.gov/wp-content/uploads/2013/07/MSP\\_workshop\\_notes.pdf](http://www.msp.wa.gov/wp-content/uploads/2013/07/MSP_workshop_notes.pdf)



While establishing goals, objectives and boundary provides an important way to refine the scope of the MSP, the planning process and the final MSP must also follow the requirements set forth by the state law. The sections below highlight some key principles and elements required in this planning process. Washington state law requires that marine spatial plans adhere to the following planning principles (RCW 43.372.040):

- Recognizes and respects existing uses and tribal treaty rights.
- Promotes protection and restoration of ecosystem processes to a level that will enable long-term sustainable production of ecosystem goods and services.
- Addresses potential impacts of climate change and sea level rise upon current and projected marine waters uses and shoreline and coastal impacts.
- Fosters and encourages sustainable uses that provide economic opportunity without significant adverse environmental impacts.
- Preserves and enhances public access.
- Protects and encourages working waterfronts and supports the infrastructure necessary to sustain marine industry, commercial shipping, shellfish aquaculture, and other water-dependent uses.

<sup>3</sup> Originally public comment was scheduled for May and June, but many stakeholders requested a longer timeframe to gather input, which is reflected in this diagram.

- Fosters public participation in decision making and significant involvement of communities adjacent to the state's marine waters.
- Integrates existing management plans and authorities and makes recommendations for aligning plans to the extent practicable.

Additionally, the final plan must include the following elements (RCW 43.372.040):

- An ecosystem assessment that analyzes the health and status of Washington marine waters including key social, economic, and ecological characteristics and incorporates the best available scientific information, including relevant marine data. This assessment should seek to identify key threats to plan goals, analyze risk and management scenarios, and develop key ecosystem indicators. In addition, the plan should incorporate existing adaptive management strategies underway by local, state, or federal entities and provide an adaptive management element to incorporate new information and consider revisions to the plan based upon research, monitoring, and evaluation;
- Using and relying upon existing plans and processes and additional management measures to guide decisions among uses proposed for specific geographic areas of the state's marine and estuarine waters consistent with applicable state laws and programs that control or address developments in the state's marine waters;
- A series of maps that, at a minimum, summarize available data on: key ecological aspects of the marine ecosystem, including physical and biological characteristics, as well as areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures; human uses of marine waters, particularly areas with high value for fishing, shellfish aquaculture, recreation, and maritime commerce; and appropriate locations with high potential for renewable energy production with minimal potential for conflicts with other existing uses or sensitive environments;
- An element that sets forth the state's recommendations to the federal government for use priorities and limitations, siting criteria, and protection of unique and sensitive biota and ocean floor features within the exclusive economic zone waters that is consistent with the policies and management criteria contained in 43.372 RCW and [43.143](#) RCW;
- An implementation strategy describing how the plan's management measures and other provisions will be considered and implemented through existing state and local authorities; and
- A framework for coordinating state agency and local government review of proposed renewable energy development uses requiring multiple permits and other approvals that provide for the timely review and action upon renewable energy development proposals while ensuring protection of sensitive resources and minimizing impacts to other existing or projected uses in the area.

As noted above, the law requires the MSP to be submitted to NOAA to be amended into the state's federally-approved coastal zone management program (CZMP).<sup>4</sup> The federal Coastal Zone Management Act includes the federal consistency provision, which gives states the authority to review federal projects and ensure they are consistent with the enforceable policies of a state's approved CZMP. Through federal consistency, federal agency activities must be consistent to the maximum extent practicable with the enforceable policies of the CZMP. Federally licensed or funded activities must be fully consistent with the enforceable policies of the state's approved CZMP. This can include federal activities inside or outside the state's coastal zone that affect uses or resources of the state's coastal

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<sup>4</sup> More information on Washington State's approved coastal zone management program is available at: <http://www.ecy.wa.gov/programs/sea/czm/index.html>

zone. To establish a basis for federal consistency review, a state must be able to connect reasonably foreseeable effects to state coastal resources or uses to specific federal activities. The criteria section below outlines the considerations that apply to determining the MSP study area.

The law also requires the MSP to rely upon existing data and resources, but also identify data gaps and, as possible, procure missing data necessary for planning (RCW 43.372.040).

## Potential Activities

The MSP and non-project EIS will analyze and address a suite of potential activities that could adversely impact existing uses or resources on Washington's Coast and develop a comprehensive plan for addressing these types of potential activities to avoid and minimize impacts, reduce potential conflicts, and to foster a healthy ecosystem. In addition, the MSP provides a basis for improving coordination and implementation of existing state and local laws, regulations and policies. It also provides an opportunity to coordinate with federal agencies and tribes related to their authorities.

At the same time, the MSP does not have authority to affect any existing or proposed project, use or activity during the development of the plan. The law also does not create any new authority (RCW 43.372.060).

Discussions at the goals and objectives workshop series and at meetings of the Washington Coastal Marine Advisory Council provided a list of potential marine activities that were of concern and might be addressed through the MSP such as:

- Renewable energy such as wind, wave, tidal
- Marine Preserves such as Marine Reserves or Natural Area Designations
- Oil and mineral mining<sup>5</sup>
- Offshore Aquaculture
- Cable Laying
- Dredging and dredge disposal
- Shipping

Of this list of potential activities, the state law specifically requires the MSP address renewable energy in the marine environment.

Which other proposed activities will be addressed by the MSP depends on factors such as:

1. Is there a potential conflict between uses and/or needs?
2. Can the issue be resolved by managing activities or resources in time or space?
3. At what scale is the activity or problem occurring such as global, regional, state, or local? Can this activity be effectively managed at the state or local level?
4. Is there an existing state or local mechanism that applies to managing the particular activity, issue or problem? Would developing a MSP assist in filling a management gap for the particular activity, issue or problem?

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<sup>5</sup> Note: Washington state law prohibits drilling for oil and gas in state waters.

## Criteria and considerations for Draft Goals, Objectives and Boundary

Ecology and the State Ocean Caucus agencies will use following criteria to assist in considering public comments on the draft goals, objectives and boundary for the marine spatial plan.

### Criteria for goals and objectives

Goals and objectives help define the purpose and broad outcomes for a planning process. But, goals and objectives are often confused with each other. Goals are broad statements and describe the overall vision stated in practical terms. Objectives are specific statements detailing the desired accomplishments or outcomes of a planning process. Objectives describe how the goal or vision will be achieved. The following are some key criteria for evaluating goals and objectives:

1. Consistent with state laws, regulations, and policies. The marine spatial plan does not create new regulations. It must integrate with existing state laws, rules and policies, particularly the following laws and their associated rules and policies:
  - Shoreline Management Act and regulations (RCW 90.58 and WAC 173-26)
  - Ocean Resources Management Act (RCW 43.143 and WAC 173-26-360)
  - Clean Water Act (RCW 90.48)
  - State Environmental Policy Act (RCW 43.21C)
  - Aquatic Lands Statutes (RCW 79.105-79.145)
  - Fish and Wildlife Statutes (RCW 77.04.012)
  - Seashore Conservation Area (RCW 79A.05.600)
2. Objectives link to goals and are Specific, Measureable, Achievable, Realistic, and Time-limited (SMART). See below for definitions of these terms:
  - **Specific** – describes what asset
  - **Measureable** – describes the measure in general terms such as the same, increase, decrease, enhance, restore, etc.
  - **Achievable** – desired condition or state of asset such as extant, quantity, or quality.
  - **Realistic** – is based on what can be achieved under law.
  - **Time-limited** – describes over what time period such as short term, long term, in perpetuity, etc.

### Criteria for marine spatial planning study area (boundary)

The study area, or boundary, for MSP helps focus data gathering, studies, analyses, and scenarios in the plan on the areas, resources and uses. The state has jurisdiction in state waters out to 3 nautical miles offshore. Federal waters extend beyond this area from 3 to 200 nautical miles. As discussed in the background section, the state can consider potential federal activities in federal waters for their impact on coastal uses and resources in the state's coastal zone. Washington State's approved coastal zone consists of 15 coastal counties and the marine waters of the state out to 3 nautical miles offshore. On Washington's Pacific Coast, this includes Clallam, Jefferson, Grays Harbor and Pacific counties.

During the workshop series, NOAA staff shared their experience in other states and that other states had tried to include a boundary out to 200 nautical miles in their planning efforts. NOAA staff indicated

that that distance has not been approved in any other state and would be very difficult to justify for the application of federal consistency provisions. For areas outside of state waters, the boundary will need to be based on the information that supports a relationship between specific federal activities and foreseeable effects on Washington's coastal resources or uses. NOAA staff suggested looking at the type of criteria that they would use to determine whether a state's coastal program could evaluate an activity for federal consistency. These boundary criteria for establishing a study area include:

1. The type of specific federal activity or activities that are reasonably expected to be proposed on Washington's Coast in the next 15 years.
2. Geographic footprint is based on the likely location of the federal activity or activities and/or technological limitations of the activity.
3. The likelihood the federal activity or activities has, or will have, reasonably foreseeable effects on Washington's coastal uses or resources.
4. Represents an ecologically meaningful area based on ecological functions, processes or important resource areas. For example, bathymetric features, critical resource areas (e.g. habitats, feeding or breeding areas), or migration patterns.
5. Amount of existing data and information available, including the geographic coverage of existing studies and available spatial data such as recent Environmental Impact Studies, management plans and other data.

## **Draft proposed language for goals, objectives, and boundary of Marine Spatial Plan on Washington's coast**

The process described earlier brought together a diverse group of government representatives and stakeholders in a series of workshops to develop draft goals, objectives and boundary for further consideration in a public comment period. Workshop attendees developed the following draft language for goals, objectives and the boundary for a marine spatial plan on Washington's Pacific Coast.

Please see the draft workshop summary for more detailed description of the presentations and discussions available online at:

[http://www.msp.wa.gov/wp-content/uploads/2013/07/MSP\\_Workshop\\_Summary\\_Report\\_2013.pdf](http://www.msp.wa.gov/wp-content/uploads/2013/07/MSP_Workshop_Summary_Report_2013.pdf)

This comment period is seeking public comment on the draft goals, objectives and boundary outlined below.

**Draft Overarching Goal:** To ensure a resilient and healthy marine ecosystem on Washington’s coast that supports sustainable economic, recreational, and cultural opportunities for coastal communities, visitors and future generations.

**Draft Theme Goal 1:** Protect and preserve resource access and sustainable resource use for coastal communities to ensure economic vibrancy.

**Draft Objective 1:** Protect and encourage healthy existing natural resource- based economic activity on the Washington Coast.

**Draft Theme Goal 2:** Maintain maritime coastal communities from now into perpetuity.

**Draft Objective 2:** Sustain diverse traditional uses to ensure continuity of WA’s coastal identity, culture, and high quality of life.

**Draft Theme Goal 3:** Ensure that our marine ecosystem is preserved for future generations.

**Draft Objective 3:** Foster healthy and resilient marine ecosystem functions, biodiversity and habitats.

**Draft Theme Goal 4:** Develop an integrated decision making process which supports proactive, adaptive and efficient spatial planning.

**Draft Objective 4:** Develop a locally supported and collaborative process for aligning management decisions.

**Draft Theme Goal 5:** Encourage economic development that recognizes the aspirations of local communities and protects coastal resources.

**Draft Objective 5:** Enhance sustainable economic opportunities to achieve a resilient economy and improved quality of life.

### **Proposed Boundary Options for the MSP Study Area**

The workshop attendees had lengthy discussions about the geographic area (boundary) that should be addressed in the MSP and the criteria for developing a boundary for the MSP (see section above for more details on the criteria and workshop summary report discussion). Based on the foreseeable location of potential proposed uses like renewable energy, availability of existing data, location of existing uses, ecological considerations, the workshop attendees agreed to put forward two options outlined below.

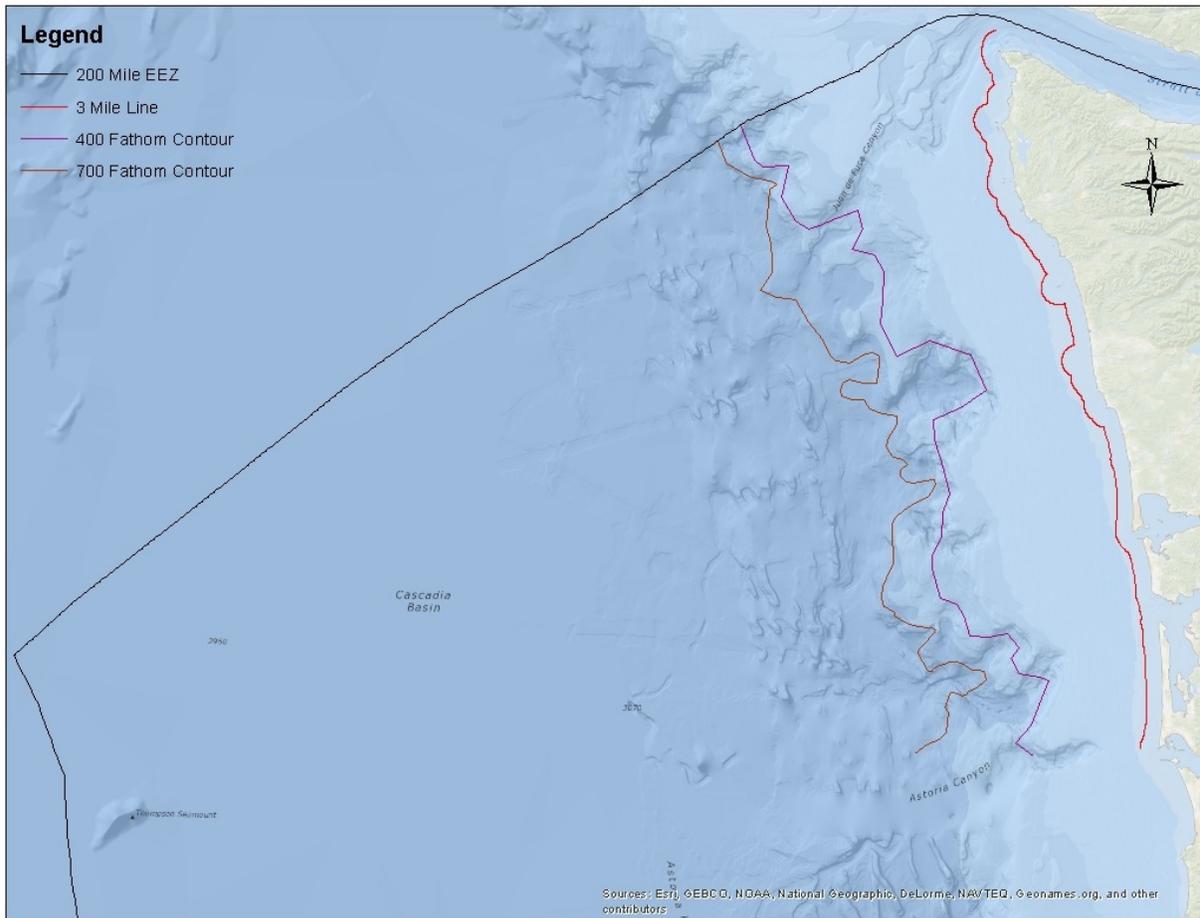
Both of the proposed study area options for Washington’s Marine Spatial Plan outlined below include Washington’s marine waters along the Pacific Ocean from Cape Flattery south to Cape Disappointment

and from ordinary high water out to offshore areas. This study area includes the estuaries along the coast such as Grays Harbor and Willapa Bay. The offshore boundary of the proposed study areas is proposed to follow water depth contours that follow the continental shelf/slope at two different depths. These options are approximately 40 to 60 miles offshore of Washington.

**Option 1:** 400 fathoms (731 meters) depth contour

**Option 2:** 700 fathoms (1280 meters) depth contour

**Map of the proposed 400 and 700 fathom MSP Plan Study Areas options with state waters (3 nautical mile) and federal waters (200 nautical mile) limits**



How do the proposed study area boundaries compare to the information for the boundary criteria discussed above?

1. There is reasonable expectation based on past proposals, that renewable energy projects (offshore wind, wave or tidal) could be proposed off Washington's Coast in the next 15 years.
2. While technology requirements vary by type, all renewable energy technologies appear to be limited to within 20 to 25 miles of shore in the near future.<sup>6</sup> Both of the proposed boundary options for the MSP study area are well beyond this distance from shore (40-60 miles offshore).
3. Renewable energy projects have reasonably foreseeable effects on Washington's coastal uses or resources, such as fisheries, shipping, recreation, habitat, and marine species. See below for a discussion of fisheries relative to the proposed boundaries. There is a greater likelihood of effects to Washington's resources: 1) in areas with greater proximity to Washington's waters and 2) in the areas with greater proximity to the location of potential projects.
4. The proposed boundaries are ecologically meaningful. The proposed study areas both encompass ecological functions, processes and important resource areas such as upwelling, currents, and important feeding and migration areas and habitats. The ecological processes and functions in these areas have important connections to nearshore ecological processes, but are fairly distinct from farther offshore pelagic and abyssal areas of the ocean.
5. The amount of existing data and information available is much greater shoreward of 700 fathoms, including recent management plans and Environmental Impact Studies.<sup>7</sup> Significantly less information is available beyond 700 fathoms. For example, NOAA conducts most of the fishery-independent surveys for this area with all of them occurring shoreward of 700 fathoms. The deepest surveys are the annual groundfish bottom trawl survey (from 30 fathoms to 700 fathoms) and midwater trawl surveys (to 100 fathoms). NOAA coral and sponge and habitat mapping surveys primarily occur in the 70-150 fathom area.

What do these proposed boundaries mean relative to fisheries?

The Pacific Fishery Management Council has federal fishery management plans for salmon, groundfish, coastal pelagic species (e.g., sardines), and highly migratory species (e.g., albacore tuna). These fisheries occur in state and federal waters; in addition, there are state-managed fisheries that also occur in federal waters (e.g., Dungeness crab and pink shrimp). Starting at the shore and moving seaward, the recreational fisheries and the commercial salmon, sardine, and state-managed fisheries primarily occur within ten miles from shore. The commercial groundfish fishery occurs on the shelf and slope primarily shoreward of 400 fathoms. While trawling occasionally occurs between 400 fathoms and 700 fathoms, trawl gear is prohibited seaward of 700 fathoms to protect essential fish habitat. The albacore tuna fishery location varies and occurs opportunistically—the recreational fishery occurs primarily between 25 miles and 75 miles offshore and the commercial albacore fishery extends into international waters.

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<sup>6</sup> Van Cleve, FB; C Judd; A Radil; J Ahmann; and SH Geerlofs. June 2013. Geospatial Analysis of Technical and Economic Suitability for Renewable Ocean Energy Development on Washington's Outer Coast. US Department of Energy, PNNL-22554. For: Washington Department of Natural Resources, Olympia WA.

<sup>7</sup> The Olympic Coast National Marine Sanctuary final management plan (September 2011). Bureau of Ocean Energy Management's programmatic Environmental Impact Statement (2007) for renewable energy addressed areas under 100 meters (54 fathoms) depth.

## Washington Coastal Marine Advisory Council recommendations

The Washington Coastal Marine Advisory Council (WCMAC) is a diverse coastal stakeholder group established by Ecology to provide recommendations to state agencies on ocean policy, including marine spatial planning. WCMAC members were invited to participate in the workshop series along with local, state, federal and tribal government representatives. The workshop series was designed to develop consensus on draft language and options by the broader group of representatives involved in the workshops, which is reflected in the language proposed earlier in the scoping document.

After the goals and objectives workshops were completed, WCMAC provided additional recommendations regarding the content of these draft goals, draft objectives and draft proposed boundary and the public comment period. The WCMAC recommendations are included as relevant information, while the previous section provides the consensus language developed in the workshops. WCMAC's recommendations were:

1. Revise the draft goals and objectives document before sending it out for public comment, to change Draft Goal and Objective 1 language to “protect and preserve existing sustainable uses.”
2. Add 200 miles as a boundary option proposal for Marine Spatial Planning in the draft goals and objectives document and before sending it out for public comment.<sup>8</sup>

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<sup>8</sup> As noted in the criteria for the boundary, NOAA staff stated it was extremely unlikely that a boundary of 200 miles could be justified based on the criteria.