

**North of Falcon Policy C-3608– (Policy Decision)**

**TABLE OF CONTENTS**

**Page**

Summary Sheet.....	1 of 9
Draft Policy C-3608.....	2 of 9
Policy C-3608 .....	6 of 9
Commission Request: Application of Government Transparency Laws to Fisheries Management Negotiations at North Of Falcon .....	9 of 9

## Summary

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<b>Meeting dates:</b>	January 13-14, 2017
<b>Agenda item:</b>	2017-2018 North of Falcon Policy C-3608 – Policy Decision
<b>Presenter(s):</b>	Kyle Adicks, Intergovernmental Salmon Manager Bill Frymire, Senior Counsel, Office of the Attorney General

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### **Background summary:**

The Commission's North of Falcon Policy provides direction and guidance to the Department as it conducts the annual process for planning and managing salmon fishing seasons in marine and freshwater areas throughout the state.

Department staff briefed the Commission on the 2015-2016 policy in November, and outlined a timeline for adoption of a new policy at the January 2017 meeting. A draft revised policy that incorporated public comment received in November was provided to the policy during a briefing in December.

Much of the public comment received at the December meeting was specific to the 'Communication' section of the policy, specifically relating to transparency of meetings with the comanagers. The Commission requested a briefing on laws governing transparency and applicability to fisheries negotiations, efforts to increase transparency and recommendations on how to improve transparency. Those topics will be covered during this briefing.

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### **Policy issue(s) you are bringing to the Commission for consideration:**

Policy guidance to the Department for defining annual salmon fishing seasons in Washington State that meet conservation and fishery management objectives for non-treaty commercial and recreational fishing opportunity.

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### **Public involvement process used and what you learned:**

Public testimony was taken at the November and December meetings. A draft policy that included initial public comment was provided to the Commission at the December meeting, and posted online for public comment through January 6. Recreational and Commercial advisors were alerted to the Policy adoption process, draft policy and opportunity for comment during meetings and communications occurring since November.

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### **Action requested:**

The Commission will consider adoption of a North of Falcon policy.

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### **Draft motion language:**

I move to adopt the North of Falcon Policy, number C-3608, as presented by staff.

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### **Justification for Commission action:**

N/A

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### **Communications Plan:**

Public comment has been taken and considered as described above. When the Commission adopts a revised policy, it will be posted on the Commission's website, and shared with constituents as the 2017 North of Falcon process begins.

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# FISH AND WILDLIFE COMMISSION

## POLICY DECISION

**POLICY TITLE: 2017-2018 North of Falcon**

**POLICY NUMBER: C-3608**

Supersedes: C-3608, 2015-2016

Effective Date: January 13, 2017

Termination Date: December 31, 2018

See Also: C-3001 C-3622  
C-3620  
C-3621

Approved by: \_\_\_\_\_ Chair

Washington Fish and Wildlife Commission, January 13, 2017

### North of Falcon Policy

This Policy will guide Department staff in considering conservation, allocation, in-season management, and monitoring issues associated with the annual salmon fishery planning process known as "North of Falcon." When considering management issues, Department staff will ensure that decisions are made consistent with: the Department's statutory authority; *U.S. v. Washington*; *U.S. v. Oregon*; the Endangered Species Act; the Puget Sound Chinook Harvest Management Plan; the Pacific Salmon Treaty; the Pacific Fishery Management Council's Framework Salmon Management Plan; pertinent state/tribal agreements; and the applicable Fish and Wildlife Commission policies.

The Department will implement this Policy consistent with the purposes and intended outcomes described in the 21st Century Salmon and Steelhead Planning Project including:

- Salmon and steelhead will be managed to recovery and to assure sustainability in a way that is science-based, well-documented, transparent, well-communicated, and accountable.
- Fisheries will be managed to meet or exceed ESA, recovery, and conservation goals; and harvest management measures will protect and promote the long-term well-being of the commercial and recreational fisheries.

### Fishery Management

#### General

- On a statewide basis, fishing opportunities will be provided when they can be directed at healthy wild and hatchery stocks.
- Selective fishing methods and gears that maximize fishing opportunity and minimize impacts on depressed stocks will be utilized to the fullest extent possible taking into consideration legal constraints on implementation and budgetary limits associated with required sampling, monitoring and enforcement programs.
- When assessed from a statewide perspective, fishing directed at chinook, coho, pink, sockeye, or chum salmon will not be exclusively reserved for either sport or commercial users.
- When managing sport fisheries, meaningful recreational fishing opportunities will be distributed equitably across fishing areas and reflect the diverse interests of fishers, including retention and catch and release fisheries.
- The Department will seek non-treaty fishing access to unutilized portions of treaty harvest allocations through the implementation of pre-season agreements, taking into consideration changes in abundance, fishery conflicts, and factors that may influence attainment of spawning escapement objectives.

## Puget Sound

- The Puget Sound harvest management objectives for chinook and coho stocks, in priority order, are to: (1) provide meaningful recreational fishing opportunities; and (2) identify and provide opportunities for commercial harvest. When managing sport fisheries in this region, recreational opportunities will be distributed equitably across fishing areas, considering factors such as: the uniqueness of each area; the availability of opportunities for various species in each area throughout the season; the desire to provide high levels of total recreational opportunity; and the biological impacts.
- For fisheries directed at Fraser River-origin chum, pink, and sockeye stocks, the majority of harvest will be provided to the commercial fisheries.
- For fisheries directed at harvestable Puget Sound-origin chum stocks, the majority of harvest will be provided to the commercial fisheries.
- For fisheries directed at Lake Washington sockeye, the first 200,000 non-treaty harvest will be provided to recreational fishers. If the allowable non-treaty harvest is greater than 200,000, commercial harvest directed at this stock may be considered.
- For fisheries directed at harvestable Puget Sound origin pink salmon, seasons will be established that provide meaningful opportunities for both recreational and commercial fisheries while minimizing gear and other fishery conflicts.

## Grays Harbor

- Grays Harbor will be managed consistent with the Commission's Grays Harbor Policy (POL C-3621).

## Willapa Bay

- Willapa Bay will be managed consistent with the Commission's Willapa Bay Salmon Management Policy (POL-C3622).

## Columbia River

- The Fish and Wildlife Commission's policy on Columbia River Salmon Management (POL- C3620) shall guide pre-season and in-season planning of Columbia River salmon fisheries. Columbia River harvest management regimes shall be developed in cooperation with Oregon Department of Fish and Wildlife representatives.

## Pacific Ocean

- Pacific Ocean harvest shall be managed consistent with the Pacific Fishery Management Council's Framework Salmon Management Plan and the National Standards that provide for fair and equitable allocation of fishing privileges among various fishers.

## **In-Season Management**

- When in-season management actions are taken, they will be implemented in a manner that is consistent with pre-season conservation and harvest management objectives, and the fishery intent developed through the North of Falcon process.
- Prior to use, in-season updates of stock abundance affecting Puget Sound fisheries will be evaluated for technical merit and potential to improve achievement of conservation and allocation objectives.
  - When possible, in-season updates should be documented within the co-manager's annual List of Agreed Fisheries or as part of regional comanager memoranda of understanding.
  - Descriptions of potential modifications to fisheries that are contingent on in-season updates should be included in the List of Agreed Fisheries.

## **Monitoring and Sampling**

- Monitoring, sampling and enforcement programs will be provided to account for species and population impacts of all fisheries.
- Fishery participants will be required to comply with fishery monitoring and evaluation programs designed to account for species and population impacts.

## **Enforcement and Compliance**

- Enforcement strategies will be developed and staffing will be provided to promote compliance with state regulations.
- WDFW Enforcement will seek to establish and maintain effective coordination with Tribal enforcement to enhance the sharing of information.

## **Gear and Fishery Conflicts**

- Recreational and commercial fisheries shall be structured to minimize gear and other fishery conflicts. Unanticipated fishery interaction issues identified in-season, including conflicts with fisheries directed at other species, shall be resolved by involving the appropriate sport and commercial representatives in a dispute resolution process managed by Department staff.

## **Incidental Mortalities**

- The Department will manage fisheries to minimize mortalities on non-target species (e.g. rockfish, sea birds, etc.). Management regimes will include strategies to limit seabird mortalities consistent with the federal Migratory Bird Treaty Act.

## Communications

- The Department shall strive to make ongoing improvements for effective public involvement during the North of Falcon planning process and annual salmon fishery implementation, incorporating the following intents:
  - North of Falcon participants will be included as observers during appropriate state/tribal discussions of fishery issues.
  - All decisions made during the North of Falcon process will be recorded in writing.
  - A variety of tools will be used to effectively communicate with the public, to receive input on pre-season planning or in-season fishery issues, and to make available the record of decisions. Such tools will include: recreational and commercial advisory groups; public workshops to address key issues; the WDFW North of Falcon Web site; and in-season tele-conferences.
  - The Department will increase transparency by consulting with stakeholders throughout the pre-season planning process and prior to making major decisions with the co-managers.

## Other Species

- The Fish and Wildlife Commission's policy on Lower Columbia Sturgeon Management (POL-C3001) shall guide pre-season and in-season planning of Columbia River and coastal sturgeon fisheries and related incidental impacts.

## Delegation of Authority

The Fish and Wildlife Commission delegates the authority to the Director to make harvest agreements with Northwest treaty tribes and other governmental agencies, and adopt permanent and emergency regulations resulting from the agreements made during the annual North of Falcon process.

# FISH AND WILDLIFE COMMISSION POLICY DECISION

**POLICY TITLE:** 2015-2016 North of Falcon

**POLICY NUMBER:** C-3608

Supersedes: C-3608, 2013-2014

Effective Date: February 6, 2015

Termination Date: December 31, 2016

See Also: C-3001  
C-3620  
C-3621

Approved by:

  
Washington Fish and Wildlife Commission, Feb 6, 2015

Vice-Chair

## North of Falcon Policy

This Policy will guide Department staff in considering conservation, allocation, in-season management, and monitoring issues associated with the annual salmon fishery planning process known as "North of Falcon." When considering management issues, Department staff will ensure that decisions are made consistent with: the Department's statutory authority; *U.S. v. Washington*; *U.S. v. Oregon*; the Endangered Species Act; the Puget Sound Chinook Harvest Management Plan; the Pacific Salmon Treaty; the Pacific Fishery Management Council's Framework Salmon Management Plan; pertinent state/tribal agreements; and the applicable Fish and Wildlife Commission policies.

The Department will implement this Policy consistent with the purposes and intended outcomes described in the 21st Century Salmon and Steelhead Planning Project including:

- Salmon and steelhead will be managed to recover and assure sustainability in a way that is science-based, well-documented, transparent, well-communicated, and accountable.
- Fisheries will be managed to meet or exceed ESA, recovery, and conservation goals; and harvest management measures will protect and promote the long-term well-being of the commercial and recreational fisheries.

## Fishery Management

### General

- On a statewide basis, fishing opportunities will be provided when they can be directed at healthy wild and hatchery stocks.
- Selective fishing methods and gears that maximize fishing opportunity and minimize impacts on depressed stocks will be utilized to the fullest extent possible taking into consideration legal constraints on implementation and budgetary limits associated with required sampling, monitoring and enforcement programs.
- When assessed from a statewide perspective, fishing directed at chinook, coho, pink, sockeye, or chum salmon will not be exclusively reserved for either sport or commercial users.
- When managing sport fisheries, meaningful recreational fishing opportunities will be distributed equitably across fishing areas and reflect the diverse interests of fishers, including retention and catch and release fisheries.
- The Department will seek non-treaty fishing access to unutilized portions of treaty harvest allocations through the implementation of pre-season agreements, taking into consideration changes in abundance, fishery conflicts, and factors that may influence attainment of spawning escapement objectives.

## Sockeye, Chum, and Pink Salmon

- For fisheries directed at Fraser River-origin chum, pink, and sockeye stocks, the majority of harvest will be provided to the commercial fisheries.
- For fisheries directed at harvestable Puget Sound-origin chum stocks, the majority of harvest will be provided to the commercial fisheries.
- For fisheries directed at Lake Washington sockeye, the first 200,000 non-treaty harvest will be provided to recreational fishers. If the allowable non-treaty harvest is greater than 200,000, commercial harvest directed at this stock may be considered.
- For fisheries directed at harvestable Puget Sound origin pink salmon, seasons will be established that provide meaningful opportunities for both recreational and commercial fisheries while minimizing gear and other fishery conflicts.

## Chinook and Coho Salmon

- The Puget Sound harvest management objectives for chinook and coho stocks, in priority order, are to: (1) provide meaningful recreational fishing opportunities; and (2) identify and provide opportunities for commercial harvest. When managing sport fisheries in this region, recreational opportunities will be distributed equitably across fishing areas, considering factors such as: the uniqueness of each area; the availability of opportunities for various species in each area throughout the season; the desire to provide high levels of total recreational opportunity; and the biological impacts.  
Grays Harbor will be managed consistent with the Commission's Grays Harbor Policy (POL C-3621).
- The Fish and Wildlife Commission's policy on Columbia River Salmon Management (POL-C3620) shall guide pre-season and in-season planning of Columbia River salmon fisheries. Columbia River harvest management regimes shall be developed in cooperation with Oregon Department of Fish and Wildlife representatives.
- Willapa Bay will be managed consistent with the Commission's direction and policies expected no sooner than April 2015.
- Pacific Ocean harvest shall be managed consistent with the Pacific Fishery Management Council's Framework Salmon Management Plan and the National Standards that provide for fair and equitable allocation of fishing privileges among various fishers.

## **In-Season Management**

- When in-season management actions are taken, they will be implemented in a manner that is consistent with pre-season conservation and harvest management objectives, and the fishery intent developed through the North of Falcon process.

## **Monitoring and Sampling**

- Monitoring, sampling and enforcement programs will be provided to account for species and population impacts of all fisheries.
- Fishery participants will be required to comply with fishery monitoring and evaluation programs designed to account for species and population impacts.

## **Enforcement and Compliance**

- Enforcement strategies will be developed and staffing will be provided to promote compliance with state regulations.
- WDFW Enforcement will seek to establish and maintain effective coordination with Tribal enforcement to



enhance the sharing of information.

### **Gear and Fishery Conflicts**

- Recreational and commercial fisheries shall be structured to minimize gear and other fishery conflicts. Unanticipated fishery interaction issues identified in-season, including conflicts with fisheries directed at other species, shall be resolved by involving the appropriate sport and commercial representatives in a dispute resolution process managed by Department staff.

### **Incidental Mortalities**

- The Department will manage fisheries to minimize mortalities on non-target species (e.g. rockfish, sea birds, etc.). Management regimes will include strategies to limit seabird mortalities consistent with the federal Migratory Bird Treaty Act.

### **Communications**

- The Department shall strive to make ongoing improvements for effective public involvement during the North of Falcon planning process and annual salmon fishery implementation, incorporating the following intents:
  - North of Falcon participants will be included as observers during appropriate state/tribal discussions of fishery issues.
  - All decisions made during the North of Falcon process will be recorded in writing.
  - A variety of tools will be used to effectively communicate with the public, to receive input on pre-season planning or in-season fishery issues, and to make available the record of decisions. Such tools will include: recreational and commercial advisory groups; public workshops to address key issues; the WDFW North of Falcon Web site; and in-season tele-conferences.
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### **Other Species**

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### **Delegation of Authority**

The Fish and Wildlife Commission delegates the authority to the Director to make harvest agreements with Northwest treaty tribes and other governmental agencies, and adopt permanent and emergency regulations resulting from the agreements made during the annual North of Falcon process.

# Commission Request to Department

"Blue Sheet"

**Date of Request:** Dec 10, 2016

**Title of Request:** Application of Government Transparency Laws to Fisheries Management Negotiations at North Of Falcon

**Commissioner:** Wecker

**Request Due Date:** January Commission meeting.

**Priority Level (put one check in each row):**  
Importance:  High  Medium  Low

Urgency:  High  Medium  Low

**Knowledge or Action Being Requested (narrative). Describe what you want to know. Be specific.**

Information on: 1) state and tribal laws (Open Public Meetings Act, Admin Procedures Act, Public Records Act and other procedural laws) governing transparency of government operations; 2) the efforts over the years to address calls for greater transparency with regard to North of Falcon decision-making; 3) case law on applicability of sunshine laws to fisheries negotiations; and 4) recommendations on how to improve transparency.

**Output Requested (e.g., telephone call, memo, material from files, new report, presentation, other):**

Briefing for the full commission.

For Commission Executive Assistant Use	
<b>Date Assigned:</b> _____ [At Debrief]	<b>Assigned To:</b> _____ [Program]
revised 8/07/12 -eg	