

WSR 26-05-041  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 26-20—Filed February 11, 2026, 4:41 p.m., effective February 12, 2026]

Effective Date of Rule: February 12, 2026.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Rules Affected by this Order: Amending WAC 220-359-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule extends the treaty commercial white sturgeon setline fishery in Zone 6 and sets a commercial research carp fishery in John Day Pool for commercial sales to nontreaty buyers. This rule is consistent with actions of the Columbia River Compact on February 11, 2026. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use of and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to adopt permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp.

at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 11, 2026.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-359-02000F Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-359-020, effective February 12 through March 21, 2026, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas (SMRCA) 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

(1) Open Areas: SMCRA 1F (Bonneville Pool)

(a) Season: 6 AM Thursday, February 12, 2026, until 6 PM Monday, February 16, 2026.

(b) Gear: Setline gear only.

(c) Allowable sales: White sturgeon from 38 to 54 inches fork length caught in The Dalles Pool, may be sold or kept for subsistence purposes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

(2) Open Areas: SMCRA 1G (The Dalles Pool)

(e) Season: 6 AM Wednesday, February 18, 2026, until 6 PM Saturday, February 21, 2026.

(f) Gear: Setline gear only.

(g) Allowable sales: White sturgeon from 43 to 54 inches fork length caught in The Dalles Pool, may be sold or kept for subsistence purposes.

(h) Standard river mouth and dam sanctuary closures remain in place for this gear.

(3) Open Areas: SMCRA 1H (John Day Pool)

(a) Season: 6 AM Wednesday, February 18, 2026, until 6 PM Saturday, February 21, 2026.

(b) Gear: Setline gear only.

(c) Allowable sales: Sturgeon from 43 to 54 inches fork length caught in John Day Pool, may be sold or kept for subsistence purposes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

(4) Open Areas: SMCRA 1H (John Day Pool):

Railroad Island slough (45.72504, -120.69580) - only the slough side waters up from the railroad tracks.

Paterson Slough (45.70664, -120.46430) - only the slough side to the north of Hwy 14.

Sundale slough (45.72008, -120.31364) - only the slough side waters up from the railroad tracks.

Jones Canyon slough (45.71576, -121.24522) - only the slough south of the railroad tracks.

Willow Creek slough (45.79306, -120.01470) - only waters south of the eastbound lanes of I-84.

Alderdale slough (45.83741, -119.92876) - only waters north of Hwy 14.

Paterson Slough (45.92950, -119.55259) - waters inside the mouth of the slough, across from Irrigon & Umatilla fish hatcheries.

(a) Season: 6 AM Friday, February 13, 2026, until 6 PM Saturday, March 21, 2026.

(b) Gear: Gillnets only.

(c) Allowable sales: Yellow perch, bass, walleye, catfish, carp, and northern pikeminnow may be sold. These species may be sold after the permit fishing period concludes. All other species including salmon, steelhead and sturgeon must be released.

(d) These areas do not include any standard closed areas applicable to gillnet gear.

(e) Multiple net rule is in effect. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored

(5) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(6) Fish caught during the open period may be sold after the period concludes.

**Reviser's note:** The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.