WAC 220-660-430 Outfall and tide and flood gate structures in saltwater areas. (1) **Description:** Outfalls move water from one place to another, typically to a water body. Outfalls may convey stormwater, or other waste materials. Tide and flood gates are adjustable gates used to control water flow in estuary, river, stream, or levee systems.

(2) **Fish life concerns:** Outfalls can increase erosion of a bed and bank, trap sediment, and cause a direct loss of beach and bank riparian habitat.

(3) **Limit of department authority over stormwater outfall and tide and flood gate projects:**

(a) The department may not provision HPAs for stormwater discharges in locations covered by a National Pollution Discharge Elimination System municipal stormwater general permit for water quality or quantity impacts. An HPA is required only for the actual construction of any stormwater outfall or associated structures.

(b) In locations not covered by a National Pollution Discharge Elimination System municipal stormwater general permit, the department may issue HPAs that contain provisions to protect fish life from the direct hydraulic impacts of the discharge, such as scouring or erosion of the water body bed. Before issuing an HPA under this subsection, the department must:

(i) Find that the discharge from the outfall will cause harmful effects to fish life;

(ii) Send the findings to the applicant and to the city or county where the project is being proposed; and

(iii) Allow a person to use local ordinances or other ways to avoid the adverse effects resulting from the direct hydraulic discharge. The forty-five day requirement for HPA issuance under RCW 77.55.021 is suspended when the department is meeting the requirements of this subsection.

(c) After following the procedures set forth in (b) of this subsection, the department may issue an HPA that prescribes the discharge rates from an outfall structure to prevent adverse effects to the bed or flow of the waterway. The department may recommend, but not specify, the measures required to meet these discharge rates. The department may not require changes to the project design waterward of the mean higher high-water mark of marine waters.

(d) The department may not require a fishway on a tide gate, flood gate, or other associated human-made agricultural drainage facilities as a provision of a permit if such a fishway was not originally installed as part of an agricultural drainage system existing on or before May 20, 2003. The department may require a fishway on a tide or flood gate as part of a nonagricultural drainage system and on agricultural drainage systems existing after May 20, 2003.

(4) **Outfall design:**

(a) To prevent scouring, protect the shoreline bank and bed at the point of discharge using bioengineering methods or other department-approved methods.

(b) The design and location of outfalls, outflow, and any associated energy dissipaters must follow the mitigation sequence to protect saltwater habitats of special concern. The department may require that energy be dissipated using one or more of the following methods, or other effective method proposed by a person and approved by the department:

(i) Existing natural habitat features (such as large logs, root wads, natural large rocks, or rock shelves) if the habitat function or value of these features would not be degraded;

(ii) Pads of native plants (shrubs and grasses) and biodegradable fabric;

(iii) Imported habitat components (large woody material);

(iv) Manufactured in-line energy dissipaters, such as a tee diffuser;

(v) Rounded rock energy dissipation pads; or

(vi) Angular rock energy dissipation pads, if the department determines other options are not feasible.

(c) An outfall pipe or other structural element that crosses a beach must be buried deep enough to avoid interrupting the along-shore sediment drift.

(d) To minimize impacts to saltwater habitats of special concern, the department may require that the outlet of submerged outfall piping not protrude above grade landward of minus thirty feet MLLW.

(e) The department will require a seagrass/macroalgae habitat survey for new construction unless the department can determine the project will not impact seagrass and kelp beds, and in herring spawning beds, other macroalgae used as spawning substrate. A survey is not required to replace an existing structure within its original footprint.

(5) **Outfall construction:**

(a) To protect critical food fish or shellfish habitats, the department may apply timing constraints to proposed projects. The department must consider the construction techniques, location of the project, and characteristics of habitats potentially affected by the project. The department may inspect the work area to evaluate the habitat that supports fish life near the project.

(b) During times when work in waters of the state is prohibited to protect nearshore juvenile salmonid migration, rearing, and feeding areas, the department may permit construction if the outfall is located at or landward of the OHWL, and if all construction work is conducted from the landward side of the project.

(c) The department may require a person to establish structure elevations relative to permanent benchmarks before starting work on the project. The benchmarks must be located, marked, and protected to serve as a post-project reference for ten years.

(d) A person must not conduct project activities when tidal waters cover the work area including the work corridor, except the area occupied by a grounded barge.

(e) If a preconstruction seagrass/macroalgae habitat survey was performed, the conveyance pipe centerline must be reestablished during construction using the same methodology used to establish the centerline during the seagrass/macroalgae habitat survey.

[Statutory Authority: RCW 77.04.012, 77.04.020, and 77.12.047. WSR 15-02-029 (Order 14-353), § 220-660-430, filed 12/30/14, effective 7/1/15.]