

WAC 220-660-240 Pond construction. (1) **Description:** A person may construct an out-of-channel pond for livestock watering, irrigation, fire protection, or other use. If the pond construction involves diverting water, a water right must be obtained prior to diverting waters of the state. This requirement does not apply to constructing stormwater pond facilities landward of the ordinary high water line.

(2) **Fish life concerns:** To prevent fish from being injured or killed, a person must physically prevent fish from entering ponds not intended as fish habitat. Ponds can contribute to increased water temperatures and loss of instream flow in a watercourse, which may impact the survival of fish that need cold water for survival.

(3) **Pond design and construction:**

(a) Do not construct ponds within the watercourse.

(b) Design and construct ponds to protect fish life:

(i) Design, construct, and screen ponds to prevent the entry of fish unless the department determines that the pond will provide beneficial habitat; in which case, the design and construction must provide free and unrestricted fish access.

(ii) Unless the intent of the bypass reach is to enhance fish life or habitat that supports fish life, locate the outflow of the pond (return flow system) as close to the diversion point as possible so diverted water is absent from the watercourse for the shortest amount of time (shortest length of bypass reach).

(iii) Isolate the work area from the watercourse while constructing the pond, diversion system, and the return flow system. Design and construct the pond so the outflow temperature does not harm fish life.

[Statutory Authority: RCW 77.04.012, 77.04.020, and 77.12.047. WSR 15-02-029 (Order 14-353), § 220-660-240, filed 12/30/14, effective 7/1/15.]