

Chapter 135-110 WAC
ELECTION AND REPLACEMENT OF CONSERVATION DISTRICT SUPERVISORS

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WAC

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GENERAL

WAC 135-110-100 Purpose and authority. This rule provides direction for the election and replacement of conservation district supervisors in the state of Washington as authorized by RCW 89.08.190 and 89.08.200.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-100, filed 10/19/10, effective 11/19/10.]

WAC 135-110-110 Definitions. "Absentee ballot" or "mail-in ballot" means a ballot issued to a voter before election day that can be delivered to the conservation district or designated election supervisor on or before the day of the election.

"Ballot" or "official ballot" means the final, preprinted ballot containing the name of each declared, nominated candidate found eligible, and at least one line where a voter may enter the name of a write-in candidate.

"Ballot box" means a container secured against tampering into which paper ballots are placed.

"Candidate" means a person seeking the office of elected conservation district supervisor who has provided the required candidate information to the conservation district by the filing deadline and whose eligibility to run and to serve has been verified by the conservation district.

"Canvass" and "canvassing" means to examine carefully or scrutinize the election returns for authenticity and proper count.

"Certify" and "certification" means the canvassing of returns and the verification of substantial compliance with these procedures by the conservation commission.

"Conservation commission" means the Washington state conservation commission governing board and all deputies and representatives authorized to act on its behalf.

"Conservation commission board" and "conservation commission governing board" means the governing board of the Washington state conservation commission.

"Conservation district" means a governmental subdivision of the state of Washington organized under the provisions of chapter 89.08 RCW Conservation districts.

"Conservation district supervisors" and "district supervisors" means the governing board of a conservation district, composed of elected and appointed supervisors.

"Declared nominated candidate" and "nominated candidate" means an individual found to be a qualified district elector who is eligible and who has submitted the candidate information required, including a qualified nominating petition, to the conservation district by the

filing deadline, and the conservation district has verified the eligibility of the candidate.

"Declared vacant" means a declaration by the conservation commission that a conservation district supervisor position is vacant.

"Declared write-in candidate" means a person seeking the office of elected supervisor who has provided the required candidate information to the conservation district by the filing deadline, and the conservation district has found the person eligible.

"Double envelope balloting" means a paper balloting system consisting of an inner and an outer envelope, where a ballot is placed in an inner envelope with no personally identifying marks on it, and then the inner envelope with ballot is placed in the outer envelope upon which the voter has provided sufficient information to allow polling officers to verify the eligibility of the voter.

"Due notice" or "notice" means a notice published at least twice, with at least six days between publications, in a publication of general circulation within the affected area. If there is no such publication, a notice may be posted at a reasonable number of public places within the area where it is customary to post notices concerning county and municipal affairs. There is no requirement for publication of a legal advertisement in a newspaper of record. However, if a legal advertisement is published, a copy of the announcement as published, showing the date of publication, is sufficient proof of publication.

"Elected supervisor" means a qualified district elector:

- (a) Who received more valid votes than any other candidate; and
- (b) Whose election has been certified and announced by the conservation commission.

"Election supervisor" means an individual or entity appointed by conservation district supervisors to organize, coordinate, and manage tasks related to the election of conservation district supervisors. Only the conservation district board of supervisors may set election dates and appoint the election supervisor.

"Electioneering" means the act of soliciting or advocating votes for a specific candidate, or speaking for or against a specific candidate within three hundred feet of a ballot box or voting place.

"Farm and agricultural land" is defined in RCW 89.08.020 as follows: "Farm and agricultural land" means either:

- (a) Land in any contiguous ownership of twenty or more acres devoted primarily to agricultural uses;
- (b) Any parcel of land five acres or more, but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to one hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter; or
- (c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income of one thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter.
- (d) Agricultural lands shall also include farm woodlots of less than twenty and more than five acres and the land on which appurtenances necessary to production, preparation or sale of the agricultural products exist in conjunction with the lands producing such products.
- (e) Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands."

"Farm operator" or "operator of a farm" means a person who operates farm and agricultural land.

"Filing deadline" means four weeks before election day in the current election cycle, or, if a local filing deadline that is more than four weeks before election day is adopted by formal action of the conservation district supervisors, that adopted filing deadline.

"Full term," "regular term," and "full term of office" means a three-year term of office.

"Incumbent" means the person in present possession of the office of conservation district supervisor.

"Landowner" means a person with legal title of record to real property in the conservation district at the time of filing for election or applying for appointment.

"Mail-in election" means an election in which mail-in ballots are provided before election day to qualified voters. Voters return completed ballots to a receiving location or address authorized by the conservation district board of supervisors.

"Malfeasance" means wrongful conduct that affects, interrupts, or interferes with the performance of a supervisor's official duty.

"Mid-term" and "mid-term vacancy" means a vacancy in the office of conservation district supervisor, when such vacancy occurs before the full term of office has been fulfilled.

"Municipal officer" means all elected and appointed officers of a conservation district, together with all deputies and assistants of such an officer, and all persons exercising or undertaking to exercise any of the powers or functions of a municipal officer.

"Neglect of duty" means failure by a supervisor or supervisors to perform mandatory duties. Such duties include, but are not limited to:

(a) Compliance with laws and rules imposed by local, state, and federal government entities;

(b) Attendance at a sufficient number of board meetings so as to not impede the work of the conservation district;

(c) Maintaining a full and accurate record of district business;

(d) Securing of surety bonds for board officers and employees;

(e) Carrying out an annual financial audit;

(f) Providing for keeping current a comprehensive long-range program;

(g) Providing for preparation of an annual work plan;

(h) Providing for informing the general public, agencies, and occupiers of lands within the conservation district of conservation district plans and programs;

(i) Providing for including affected community members in regard to current and proposed plans and programs; and

(j) Providing for the submission of the conservation district's proposed long-range program and annual work plan to the conservation commission.

"Nominating petition" means a list of signatures of nominators who desire a candidate's name be placed on the official ballot for a conservation district election.

"Nominator" means a qualified district elector who signs a petition nominating an individual seeking the office of elected supervisor.

"Poll list" or "polling list" means a list of voters who voted in an election.

"Polling officer" means a person appointed by the election supervisor to verify voter eligibility, assure compliance with this rule in and around the polling place, issue ballots, count ballots, and verify

the unofficial ballot count in writing to conservation district supervisors.

"Poll site" and "polling site" means a location where votes are collected in a ballot box.

"Poll-site election" and "walk-in election" means an election in which a voter signs in on a poll list, receives a ballot from a polling officer, enters a vote for a candidate on the ballot, and places the ballot in a ballot box at a polling place supervised or monitored by polling officers.

"Provisional ballot" or "contested ballot" means a paper ballot issued to a voter whose qualifications as a qualified district elector cannot be determined at the time the paper ballot is issued. A provisional ballot consists of two envelopes and a paper ballot.

"Qualified district elector" means a registered voter in the county where the district is located and who resides within the conservation district boundary. Qualified district elector means an individual residing within the boundary of the conservation district and registered to vote in a county where the conservation district is located.

"Qualified nominating petition" means a nominating petition which contains at least twenty-five signatures of nominators.

"Remote election" means an election in which ballots are returned by some means other than for a poll-site election. A mail-in election is a type of remote election.

"Short term" or "short term of office" means a term of office less than three years in duration.

"Supervisor" means an elected or appointed board member of a local conservation district governing board, in which the governing board is referred to as the board of supervisors.

"Supervisor-elect" means a supervisor who received more valid votes than any of the other candidates running for the same position in a conservation district election, but the election has not yet been certified by the conservation commission.

"Tie" or "election tie" means an election where no candidate has received a simple majority of votes cast by qualified district electors, and two or more candidates have received the same number of votes cast by qualified district electors.

"Undeclared write-in candidate" means an individual who has not submitted required candidate information to the conservation district and who has not submitted a qualified nominating petition by the filing deadline.

"Voter" means a person who submits a ballot in a conservation district election.

"Withdrawal of candidacy" and "to withdraw" means a written notice, signed and dated by the candidate, and delivered to the conservation district, stating the person's desire to be removed from consideration for the office of conservation district supervisor.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-110, filed 10/19/10, effective 11/19/10.]

WAC 135-110-120 Compliance. (1) The conservation commission may make a determination of significant noncompliance when parties act in variance of this section.

(2) Significant noncompliance is the failure to follow the requirements in this rule that may affect the outcome of an election or deny voters their right of privacy in voting.

(3) The conservation commission may decline to certify an election found in significant noncompliance.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-120, filed 10/19/10, effective 11/19/10.]

WAC 135-110-130 Documents provided to conservation commission to be copies. (1) All election forms and documents submitted to the conservation commission must be copies. Original documents must remain in the care and custody of the conservation district.

(2) The conservation commission may inspect original documents upon request.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-130, filed 10/19/10, effective 11/19/10.]

WAC 135-110-140 Records retention. (1) Unissued or undeliverable ballots must be retained for ten days after the election is certified and the official results announced, and then may be destroyed.

(2) All ballots submitted by voters, and all candidate filing records (including candidate information, nominating petitions, verification of eligibility, and withdrawals of candidacy), must be retained for six months after the election is certified and the official results announced, and then may be destroyed.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-140, filed 10/19/10, effective 11/19/10.]

WAC 135-110-150 Conservation district must remain impartial. No conservation district supervisors, municipal officers or employees may adopt or state an official position about any candidate that promotes, or is prejudicial to, a candidate.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-150, filed 10/19/10, effective 11/19/10.]

WAC 135-110-160 Legal boundaries of conservation district to be available. The election supervisor and polling officer(s) must be able to produce the legal boundary of the conservation district to any person at a physical poll site or at the conservation district office.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-160, filed 10/19/10, effective 11/19/10.]

WAC 135-110-170 Only one ballot per voter may be counted. In the event more than one ballot is submitted by a voter, the first ballot tallied is the only vote counted. Any subsequent ballots from the same voter will be disqualified and must not be counted.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-170, filed 10/19/10, effective 11/19/10.]

WAC 135-110-180 Disruptive acts prohibited. (1) Behavior that disrupts or interferes with the election of conservation district supervisors is prohibited.

(2) A conservation district supervisor, polling officer, or election supervisor may require disruptive persons to leave a physical poll-site election. Such disruptive persons must remain at least three hundred feet away from the polling place or facility where official election functions are being performed.

(3) A conservation district supervisor, polling officer, or election supervisor may enlist the aid of law enforcement personnel to assist in identifying disruptive persons and preventing such persons from disrupting or interfering with any election processes.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-180, filed 10/19/10, effective 11/19/10.]

ESTABLISHING ELECTION, PROVIDING NOTICE

WAC 135-110-200 Conservation district must hold election. A conservation district must hold an election during January, February, or March in the year a three-year term of an elected supervisor will expire.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-200, filed 10/19/10, effective 11/19/10.]

WAC 135-110-210 Conservation district must adopt election resolution. (1) Each year the conservation district supervisors must adopt a resolution establishing the election.

(2) The election resolution adopted by the conservation district supervisors must include the following information:

- (a) The name of the conservation district;
- (b) The date(s), the physical location(s), and the times polls will open and close for each polling place;
- (c) The election methods selected for the election;
- (d) A list showing the name of each elected and appointed conservation district supervisor with a term expiring in the election and appointment cycle covered by the resolution;
- (e) The filing deadline for candidates;
- (f) Identification of an individual appointed by the conservation district to fulfill the duties of election supervisor; and
- (g) The dated signature of at least one conservation district supervisor attesting to this information.

(3) This information must be provided to the conservation commission by the candidate filing deadline.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-210, filed 10/19/10, effective 11/19/10.]

WAC 135-110-220 Due notice required before and after election resolution. (1) Due notice of the intent to adopt a resolution establishing the election must be provided by the conservation district to potential qualified district electors of the conservation district prior to adopting the resolution.

(2) Following the conservation district's adoption of the election resolution, due notice containing all election information in the resolution must be published, using the filing deadline as the date for determining compliance with due notice requirements.

(3) If a conservation district adopts a standing resolution establishing a repeating annual election schedule, due notice of expiring terms and the filing deadline must be provided to constituents, using the filing deadline as the date for determining compliance with due notice requirements.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-220, filed 10/19/10, effective 11/19/10.]

WAC 135-110-230 Conservation district appoints election supervisor. (1) The conservation district supervisors must appoint a person or firm as the election supervisor.

(2) The election supervisor:

(a) Serves as the primary point of contact between the conservation district and the conservation commission for the conservation district election;

(b) Organizes, coordinates, and facilitates election-related activities of the conservation district;

(c) Assures that required election procedures are properly conducted; and

(d) Assures that required information is properly transmitted to the conservation commission.

(3) Conservation district supervisors remain responsible for conducting an election in compliance with this section.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-230, filed 10/19/10, effective 11/19/10.]

WAC 135-110-240 Election may be on-site, remote, or both. (1) The conservation district supervisors must choose the method of the election using physical poll sites, or by remote methods, or by any combination of these methods that assures fair treatment of candidates and voters, provides privacy in voting, and complies with all other parts of this rule.

(2) Every physical poll site must be open for at least four hours at a time convenient for voters, and every physical poll site must have at least two polling officers present during the hours the polls are open.

(3) Ballots submitted by mail must be postmarked no later than the day of the election, or the last day if multiple election days. Ballots submitted by physical delivery must be received at the district office by the announced final polling time of the day of election, or the last day if multiple election days. Remote ballots transmitted by any other means must be transmitted by the last day of election.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-240, filed 10/19/10, effective 11/19/10.]

WAC 135-110-250 Voting must be accessible. Disabled voters must be offered a voting method accessible to them.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-250, filed 10/19/10, effective 11/19/10.]

CANDIDATE ELIGIBILITY, FILING, NOMINATION, VERIFICATION, WITHDRAWAL

WAC 135-110-300 Every candidate must be a qualified district elector. A candidate for election to the office of conservation district supervisor must be a qualified district elector at the time of filing.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-300, filed 10/19/10, effective 11/19/10.]

WAC 135-110-310 Some candidates must be landowners or farm operators. RCW 89.08.160 requires two of the three elected supervisors to be landowners or operators of a farm. If the election of a candidate would cause a conservation district board of supervisors to contain fewer than two elected supervisors who are landowners or farm operators, the candidate is not eligible to be elected.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-310, filed 10/19/10, effective 11/19/10.]

WAC 135-110-320 Submission of candidate information required to be elected. (1) Only persons who file candidate information with the conservation district by the filing deadline and who are found by the conservation district to be eligible to be elected may be elected, unless no person has filed for the office by the filing deadline.

(2) The name of a person who files candidate information by the filing deadline but does not file a qualified nominating petition must not be printed on the official ballot, but may be elected as a declared write-in candidate.

(3) Information to be submitted to the conservation district by a person seeking to be a candidate for election must include:

(a) The name of the conservation district;

(b) The person's name, residential address, mailing address (if different), and phone number;

(c) Whether the person is a registered voter in the county where the conservation district is located;

(d) Whether the person resides inside the conservation district boundary;

(e) Whether the person is a landowner or an operator of a farm; and

(f) The dated signature of the person attesting to the accuracy of the information so provided.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-320, filed 10/19/10, effective 11/19/10.]

WAC 135-110-330 Filing deadline. (1) The filing deadline for candidates is four weeks before election day.

(2) By formal action the conservation district supervisors may make the filing deadline on a day more than four weeks before the election.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-330, filed 10/19/10, effective 11/19/10.]

WAC 135-110-340 Only nominated candidates may appear on official ballot. (1) A qualified nominating petition is required for each candidate who wishes for his or her name to appear on the official ballot.

(2) The qualified nominating petition must contain at least twenty-five signatures of nominators and provide the following information:

- (a) The name of the conservation district;
- (b) The name of the candidate;
- (c) The name and address of each nominator sufficient to allow verification of the nominator as a qualified district elector; and
- (d) The signature of each nominator, who by his or her signature, states his or her wish for the candidate named in the petition to be placed on the official ballot.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-340, filed 10/19/10, effective 11/19/10.]

WAC 135-110-350 Types of candidacy. (1) A declared candidate is a qualified district elector who has submitted candidate information to the conservation district by the filing deadline.

(2) A declared nominated candidate is a declared candidate who has submitted a qualified nominating petition to the conservation district by the filing deadline.

(3) An undeclared write-in candidate is a person who has not submitted candidate information to the conservation district by the filing deadline, and who has not submitted a qualified nominating petition by the filing deadline.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-350, filed 10/19/10, effective 11/19/10.]

WAC 135-110-355 Election supervisor must verify candidate eligibility. (1) The election supervisor must verify the eligibility of each person who submits candidate information required by WAC 135-110-320. The election supervisor may call upon the county auditor or the conservation commission for assistance in verifying eligibility.

(2) For a candidate to be eligible, the election supervisor must make a determination that:

- (a) The name of the person who filed candidate information is the correct legal name of the individual;
 - (b) That the person submitted candidate information by the filing deadline;
 - (c) That the person submitted a valid nominating petition by the filing deadline;
 - (d) That the person was a qualified district elector on the day of filing; and
 - (e) That at least two of the three elected conservation district supervisors on the conservation district board of supervisors will be landowners or operators of farms if the person is elected.
- (3) For a nominated candidate, the conservation district must also verify that at least twenty-five eligible nominators signed the nominating petition.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-355, filed 10/19/10, effective 11/19/10.]

WAC 135-110-360 Undeclared write-in candidate may be elected if no person files. (1) If no person has filed by the filing deadline, or if the election supervisor finds ineligible all persons who filed, then only undeclared write-in candidates may be elected.

(2) The undeclared write-in candidate, deemed the unofficial winner, must submit required candidate information to the conservation district, and within four weeks (twenty-eight calendar days) following the first date of election, the election supervisor must verify the eligibility of the unofficial winner to be elected and to serve.

(3) If the conservation district is unable to verify eligibility of the unofficial winner within four weeks of the election, the unofficial winner is disqualified. The person receiving the next highest vote count must then submit required candidate information and the conservation district must verify his or her eligibility as described above.

(4) If the undeclared write-in candidate who is the unofficial winner is found ineligible and no other persons received votes, the conservation commission will officially announce another full term of office for the incumbent on the third Thursday in May, but only upon verification by the conservation district of the eligibility of the incumbent to serve in the office of elected conservation district supervisor.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-360, filed 10/19/10, effective 11/19/10.]

WAC 135-110-370 Incumbent automatically reelected if no other person files. (1) The incumbent is automatically reelected to another three-year term if:

(a) Due notice of the election resolution and the election have been duly published by the conservation district;

(b) The only person filing by the filing deadline is the incumbent;

(c) The conservation district verifies the continued eligibility of the incumbent to serve another term of office; and

(d) The incumbent has not resigned on or before the last date of election.

(2) When an incumbent is automatically reelected, no other election activities at physical poll sites or through remote election processes may be performed.

(3) Before election day, the conservation district must inform the voting public that the incumbent has been reelected by reason of being the only person filing for the position, and that no poll site, mail, or absentee balloting will be performed, and on election day, signs containing this information must be posted at poll sites.

(4) Within four weeks of the first date of election as scheduled in the election resolution, the conservation district must inform the conservation commission of the automatic reelection of the incumbent.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-370, filed 10/19/10, effective 11/19/10.]

WAC 135-110-380 Candidate may withdraw candidacy in writing.

(1) Before election day, a candidate may withdraw his or her candidacy by submitting a written request to the conservation district.

(2) A person who withdraws his or her candidacy is not eligible to be elected in the current election.

(3) If a person withdraws his or her candidacy, the conservation district is not required to revise official ballots.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-380, filed 10/19/10, effective 11/19/10.]

PREPARING FOR ELECTION DAY, BALLOTING, POLLING OFFICERS

WAC 135-110-400 Conservation district to obtain list of registered voters. By the first election day, the conservation district must obtain a current list of registered voters from the county auditor for all territory within the conservation district boundary.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-400, filed 10/19/10, effective 11/19/10.]

WAC 135-110-410 Conservation district must set deadline for requesting absentee and mail-in ballots. To provide sufficient time for voters to obtain and return ballots to the conservation district, the conservation district must set a reasonable deadline for voters to request an absentee or mail-in ballot.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-410, filed 10/19/10, effective 11/19/10.]

WAC 135-110-420 Conservation district must not use certain lists. If a conservation district provides unrequested ballots to a population that is less than all the eligible voters within the conservation district boundary, the conservation district must not use lists obtained from an individual conservation district supervisor or employee, nor from any candidate, nor from any trade, company, church, union, fraternal or other organization.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-420, filed 10/19/10, effective 11/19/10.]

WAC 135-110-430 Conservation district may publish candidate-provided information. (1) To assist voters in the selection of a candidate during voting, a conservation district may publish information provided by nominated and declared write-in candidates.

(2) If a conservation district chooses to publish information about candidates, it must provide equal opportunity for publication and equivalent space to each nominated and declared write-in candidate.

(3) Candidate information provided by candidates and published by the conservation district may be mailed or delivered to voters before election day, but may not be provided to voters at poll sites on election day.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-430, filed 10/19/10, effective 11/19/10.]

WAC 135-110-440 Employees and municipal officers of district must not be polling officers. A conservation district supervisor, employee or municipal officer may not serve as a polling officer in the conservation district election, unless the person is the election supervisor appointed by the conservation district supervisors.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-440, filed 10/19/10, effective 11/19/10.]

WAC 135-110-450 Polling officers monitor poll-site activities. (1) During a poll-site election, polling officers must monitor the voting place for compliance with this section, and also serve as guardians of all issued and unissued ballots, under the supervision and direction of the election supervisor.

(2) If the election supervisor is present, the election supervisor may also perform these functions as described in WAC 135-110-470.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-450, filed 10/19/10, effective 11/19/10.]

WAC 135-110-460 Polling officers verify voters, issue ballots and count votes. (1) A polling officer must verify a voter is a qualified district elector before issuing a ballot to the voter.

(2) At a poll-site election, at least two polling officers must be present and in control of the ballot box(es) at all times while the polls are open.

(3) At a poll-site election, a provisional ballot must be issued if the voter's eligibility to vote cannot be determined during polling. A voter whose eligibility cannot be determined may only vote on a provisional ballot.

(4) Polling officers count votes cast by voters.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-460, filed 10/19/10, effective 11/19/10.]

WAC 135-110-470 Election supervisor may perform polling officer duties. The election supervisor may serve as a polling officer at one poll site.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-470, filed 10/19/10, effective 11/19/10.]

BALLOTS, VOTING, POLL SITES, MAIL-IN ELECTIONS

WAC 135-110-500 Conservation district must create official ballot. (1) A conservation district must create a ballot and provide a ballot to each person who wishes to vote in the conservation district election.

(2) The official ballot must:

(a) List the name of each candidate the conservation district has verified as eligible and who has submitted a qualified nominating petition;

(b) List names on the ballot in alphabetical order by last name, from top to bottom, with an empty checkbox or blank space next to each candidate's name; and

(c) Contain at least one blank line where a voter can enter the name of a declared write-in candidate, or if there are no declared candidates, the name of an undeclared write-in candidate.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-500, filed 10/19/10, effective 11/19/10.]

WAC 135-110-515 Conservation district must make ballots available. (1) The conservation district must provide a ballot to any person who requests a ballot.

(2) The conservation district may make ballots available to all potential voters within the conservation district.

(3) Ballots may be provided electronically if a suitable means of determining voter eligibility and preventing voter fraud are utilized.

(4) The conservation district may send or provide ballots to all individuals who, in the three years preceding the election, have voted in a conservation district election or have participated in conservation district services or programs.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-515, filed 10/19/10, effective 11/19/10.]

WAC 135-110-520 Absentee ballots must be provided on request. (1) Absentee ballots must be provided to eligible voters upon request, and voters need not provide proof of any special condition to obtain an absentee ballot.

(2) Absentee ballots may be returned to the conservation district by mail, by personal delivery, or by electronic means previously approved by the election supervisor.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-520, filed 10/19/10, effective 11/19/10.]

WAC 135-110-530 Provisional ballots must be provided when voter eligibility is in question. At a poll-site election, a provisional ballot must be provided to any individual wishing to vote when the individual cannot be verified as eligible to vote prior to the issuance of a ballot.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-530, filed 10/19/10, effective 11/19/10.]

WAC 135-110-540 Functional equivalent of paper ballot required. For electronic voting, the functional equivalent of a paper ballot must be utilized.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-540, filed 10/19/10, effective 11/19/10.]

WAC 135-110-550 Poll lists must be used. (1) In every conservation district election, the conservation district must create a record of who has submitted a ballot and whether the person was found eligible or ineligible to vote.

(2) Each poll list must contain:

(a) The name of the conservation district;

(b) Whether the poll list is for a poll-site or mail-in election, and if a poll-site election, the location of the poll site and the date of polling must be specified;

(3) For poll lists at poll sites, each voter must provide:

(a) His or her name, sufficient to allow identification in the voter registration list;

(b) An address sufficient to allow identification in the voter registration list; and

(c) The signature of the voter.

(4) For poll lists in mail-in elections, the name and address of the voter must be recorded.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-550, filed 10/19/10, effective 11/19/10.]

WAC 135-110-560 Mail-in, absentee, and provisional ballots must be double-envelope balloting. Ballots cast in a mail-in election, or as a paper absentee ballot, or as a paper provisional ballot, must use a double-envelope paper balloting system, in which:

(1) The voter places the completed ballot inside the inner envelope;

(2) The inner envelope is sealed to prevent tampering, and no personally identifying marks are to be placed on the inner envelope;

(3) The inner envelope containing the completed ballot is placed in the outer envelope; and

(4) The voter provides sufficient identifying information on, or inserted into, the outer envelope to allow polling officers to verify the eligibility of the voter.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-560, filed 10/19/10, effective 11/19/10.]

WAC 135-110-570 Election supervisor safeguards ballots except in a poll-site election. Ballots cast by mail-in or absentee methods are to be received and safeguarded by the election supervisor.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-570, filed 10/19/10, effective 11/19/10.]

WAC 135-110-580 Poll sites must be accessible. No poll site selected by the conservation district may appear on the county auditor's list of inaccessible polling sites as described in RCW 29A.16.140.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-580, filed 10/19/10, effective 11/19/10.]

ELECTION DAY

WAC 135-110-600 Electioneering prohibited. (1) On election day, information provided by candidates may not be provided to voters within three hundred feet of the poll site.

(2) Names of nominated and declared write-in candidates must not be publicly posted at the polls.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-600, filed 10/19/10, effective 11/19/10.]

WAC 135-110-610 Every voter must be verified as eligible. (1) Every individual requesting a ballot for any conservation district election must be verified as a qualified district elector before his or her ballot is counted.

(2) At a poll-site election, a provisional ballot must be issued if the voter's eligibility to vote cannot be determined during polling and the individual wishes to vote.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-610, filed 10/19/10, effective 11/19/10.]

WAC 135-110-620 Conservation district must provide polling officers at each poll site. The conservation district must provide at least two polling officers at each poll site, except the election supervisor may substitute for one polling officer at one poll site.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-620, filed 10/19/10, effective 11/19/10.]

WAC 135-110-630 Each poll site must have ballot box and signage.

(1) Each poll site must have at least one ballot box.

(2) Each poll site must be conspicuously identified to voters as the place to vote.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-630, filed 10/19/10, effective 11/19/10.]

WAC 135-110-640 Conservation district must assure privacy in voting. (1) The ballot choice made by a voter must not be seen by any other person during the act of voting or the placing of the ballot in the ballot box.

(2) Paper ballots must be placed into ballot boxes. Electronic ballots must assure at least the same level of security and privacy as provided by paper balloting.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-640, filed 10/19/10, effective 11/19/10.]

WAC 135-110-650 Polls to close at published time but may be extended. (1) Polling officers are to close the polls at the published time, unless the polls are extended by the election supervisor.

(2) The election supervisor may extend the time polls are open, if needed to accommodate voters.

(3) Persons waiting in line at a poll site when the polls are scheduled to be closed must be allowed to check in and vote.

(4) Poll times may not be less than advertised unless the incumbent was automatically reelected as allowed under WAC 135-110-370.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-650, filed 10/19/10, effective 11/19/10.]

AFTER VOTING CLOSES

WAC 135-110-700 Opening ballots. (1) Only polling officers and the election supervisor may open and count ballots.

(2) Mail-in and provisional ballots must be verified as having been submitted by a qualified district elector before the outer envelope is opened, and upon verification, the outer envelope must be opened and set aside, and the inner envelope placed into the ballot box.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-700, filed 10/19/10, effective 11/19/10.]

WAC 135-110-710 Polling officers to retain custody of ballots until counted. Ballots cast in a poll-site election are to remain in

the custody and control of polling officers until all ballots have been counted and properly tallied.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-710, filed 10/19/10, effective 11/19/10.]

WAC 135-110-720 Polling officers may announce unofficial results. (1) Polling officers may announce the unofficial results of the election, subject to certification and official announcement by the conservation commission.

(2) The unofficial winner is known as the supervisor-elect and may not be seated until after the conservation commission certifies the election and announces the official winner.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-720, filed 10/19/10, effective 11/19/10.]

WAC 135-110-730 Tie in unofficial election results. (1) In the case of two or more candidates receiving the most votes, and each receives an equal number of votes, polling officers must recount the ballots.

(2) If a tie is verified by the recount, the winner of the election must be determined by drawing of names as provided under RCW 29A.60.221 to ensure the drawing is equitable to all affected candidates.

(a) If no more than two candidates are tied, a coin toss may be used in lieu of drawing names to determine the unofficial winner.

(b) If more than two candidates are tied, only a drawing of names may be used to determine the unofficial winner.

(c) A representative of the conservation commission must be present for any drawing of names or coin toss.

(d) The candidate whose name is drawn (or who wins the coin toss) becomes the supervisor-elect.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-730, filed 10/19/10, effective 11/19/10.]

WAC 135-110-740 When no eligible candidate is elected. (1) When no eligible candidate is elected, the conservation commission will officially announce another full term of office for the incumbent on the third Thursday in May, but only upon verification by the conservation district of the eligibility of the incumbent to serve in the office of elected conservation district supervisor.

(2) If the conservation district determines the incumbent conservation district supervisor is no longer eligible to serve in the office of elected conservation district supervisor, or if the incumbent has resigned, the position is deemed vacant and the conservation district may appoint an eligible successor following the official announcement by the conservation commission.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-740, filed 10/19/10, effective 11/19/10.]

WAC 135-110-750 Ballot results must be reported. (1) The results of balloting must be reported to the conservation commission within twenty-eight days of the election.

(2) Ballot results must be reported separately for each poll site, for each mail-in or remote election, and for all absentee ballots. If the same poll site is open on more than one day, separate reports for each day are required.

(3) Information provided about the election must include:

(a) The name of the conservation district; and

(b) Whether the report is for a specific poll site or for a mail-in election, and if for a poll site, the location of the poll site and the date of polling must be specified.

(4) Information provided about candidates must include:

(a) The name of each candidate; and

(b) For each candidate, the number of eligible votes counted and the total number of votes cast for the person.

(5) The total number of ballots invalidated must be reported.

(6) The conservation district must identify the unofficial winner and whether the unofficial winner is a nominated candidate, a declared write-in candidate, or an undeclared write-in candidate.

(7) The ballot results report must be signed and dated by the polling officers who counted the ballots. If the election supervisor participated in counting ballots, the election supervisor must also sign the report.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-750, filed 10/19/10, effective 11/19/10.]

WAC 135-110-760 Conservation commission canvasses returns, determines compliance, announces winners. (1) The conservation commission must canvass the returns of conservation district elections to verify election results and to determine if the election was properly conducted according to the requirements in these procedures.

(2) The conservation commission must announce the official election results for each conservation district election the conservation commission has certified as being substantially in compliance with this rule. The conservation commission may decline to announce the official results of elections found not to be substantially in compliance with this rule.

(3) The conservation commission must act on elections for full-term positions annually at its regular meeting on the third Thursday in May.

(4) Action at any other time will be for short terms of office or for any other reason that the conservation commission deems such later action to be necessary.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-760, filed 10/19/10, effective 11/19/10.]

WAC 135-110-770 Elections are final when certified and announced. (1) Elections are final when certified by the conservation commission and the official results are announced by the conservation commission in May of each year or later as deemed necessary.

(2) A candidate may not perform the duties of a conservation district supervisor before the third Thursday in May and until the con-

servation commission has announced that person as the official winner of a conservation district election, unless the person is an incumbent conservation district supervisor.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-770, filed 10/19/10, effective 11/19/10.]

EMERGENCIES

WAC 135-110-800 Emergency relocation or rescheduling of election. (1) A conservation district may change the date(s) or location(s) or times for poll sites only in an emergency.

(2) The election supervisor may declare an emergency when adverse conditions may negatively affect the health or safety of voters or the timely return of absentee ballots. Such conditions may include, but are not limited to:

- (a) Weather conditions;
- (b) Damage to roads, buildings, or other infrastructure;
- (c) Chemical spills;
- (d) Fire and smoke;
- (e) Volcanic eruption, earthquake, landslides, mudflows, and floods; or
- (f) Disruptions in information network infrastructure.

(3) When an emergency is so declared, the election supervisor should make reasonable efforts to inform all conservation district supervisors and candidates listed on the ballot.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-800, filed 10/19/10, effective 11/19/10.]

WAC 135-110-810 Signage and notice required. (1) When a polling site is changed in response to an emergency, signage sufficient to notify potential voters must be provided to redirect voters to the new polling site(s). Poll times should be extended to allow for additional travel time to the relocated polls.

(2) When the election date or location is changed in response to an emergency, due notice should be given to the public of the change. If due notice is not possible, the conservation district must take reasonable measures to inform the public of the change. Such measures may include, but are not limited to: Announcements on local radio or television; posting on web pages; announcements in newspapers; and posting of handbills or flyers.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-810, filed 10/19/10, effective 11/19/10.]

WAC 135-110-820 Conservation commission to be informed. The conservation commission must be informed of all emergency changes to poll locations or dates before voting begins.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-820, filed 10/19/10, effective 11/19/10.]

VACANCIES, REMOVAL, AND REPLACEMENT

WAC 135-110-900 Only vacant offices may be filled. The office of conservation district supervisor may not be filled by election or appointment unless the term of office has expired, or the position has been immediately vacated as described in this section, or the conservation commission has declared the position vacant.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-900, filed 10/19/10, effective 11/19/10.]

WAC 135-110-910 Supervisors must be eligible to serve. (1) A conservation district supervisor must be eligible to serve in the office of conservation district supervisor throughout the term of office.

(2) If an incumbent no longer meets the minimum eligibility requirements to serve as a conservation district supervisor, the office is deemed vacant.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-910, filed 10/19/10, effective 11/19/10.]

WAC 135-110-920 Resignation from office. (1) A conservation district supervisor may resign from public office at any time, and for any reason.

(2) Resignations must be made in writing to the conservation commission or to the conservation district.

(3) Resignations are effective on the date received, unless the incumbent has specified a future date for the resignation to become effective.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-920, filed 10/19/10, effective 11/19/10.]

WAC 135-110-930 Ceasing to be a registered voter. (1) The office held by an elected conservation district supervisor is immediately vacant upon that supervisor no longer meeting the definition of a qualified district elector.

(2) The office held by an appointed conservation district supervisor is immediately vacant upon that supervisor no longer being a registered voter in the state of Washington.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-930, filed 10/19/10, effective 11/19/10.]

WAC 135-110-940 Death of the supervisor. The office held by a conservation district supervisor is immediately vacant upon the death of the supervisor.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-940, filed 10/19/10, effective 11/19/10.]

WAC 135-110-950 Declaration voiding an election. The office held by a conservation district supervisor is vacant upon the decision of a competent tribunal declaring his or her election to be void.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-950, filed 10/19/10, effective 11/19/10.]

WAC 135-110-960 Removal from office. (1) As provided in RCW 89.08.200, a conservation district supervisor may be removed from office by the conservation commission governing board upon notice and hearing for neglect of duty or malfeasance.

(2) The conservation commission must provide notice to the supervisor detailing the specific elements of the neglect of duty or malfeasance for which removal is sought. The supervisor shall be given the opportunity to respond in writing to the elements contained in the notice within thirty days of the notice to the supervisor from the conservation commission. Notice to the supervisor from the conservation commission shall be by certified mailing to the address of record for that supervisor.

(3) The conservation commission must hold at least one public hearing no earlier than sixty days from the date of certified mailing to the supervisor in the area served by the conservation district supervisor before acting to remove the incumbent from office.

(4) Following the public hearing, the conservation commission shall vote on the removal of the supervisor based on official findings of fact detailing the cause or causes of removal.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-960, filed 10/19/10, effective 11/19/10.]

WAC 135-110-970 Replacement. A vacancy in the office of elected conservation district supervisor is filled by the conservation district board of supervisors for the remainder of the unexpired term, subject to the verification of supervisor qualifications by the conservation commission. While due notice to the affected community is strongly recommended, it is not required.

[Statutory Authority: RCW 89.08.040, 89.08.190, and 89.08.200. WSR 10-21-084, § 135-110-970, filed 10/19/10, effective 11/19/10.]