WSR 26-12-037
PROPOSED RULES
CONSERVATION COMMISSION
[Filed May 27, 2026, 2:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-08-051.

Title of Rule and Other Identifying Information: Chapter 135-110 WAC, Election and replacement of conservation district supervisors.

Hearing Location(s): On July 30, 2026, at 4 p.m., at the Best Western Plus Lacey Inn and Suites, 8326 Quinault Drive N.E., Lacey, WA 98516.

Date of Intended Adoption: September 17, 2026.

Submit Written Comments to: Bill Eller, P.O. Box 47721, Olympia, WA 98504-7721, email beller@scc.wa.gov, fax 360-407-6215, beginning June 17, 2026, at 8 a.m., by July 31, 2026, at 5 p.m.

Assistance for Persons with Disabilities: Contact Lori Gonzalez, phone 360-407-7417, fax 360-407-6215, TTY 1-800-833-6388, email commission@scc.wa.gov, by July 31, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal modifies existing administrative code and establishes new procedures and requirements for the election of conservation district supervisors including, but not limited to, procedures for fulfilling ballot requests. Changes to these rules will impact procedures for all conservation district elections.

Reasons Supporting Proposal: The Washington state conservation commission is required by statute to adopt procedures for conservation district elections. The proposed rules are intended to modify existing administrative code, establish new procedures for elections by conservation districts, clarify statutory language, and provide statewide consistency in the election of conservation district supervisors.

Statutory Authority for Adoption: RCW 89.08.040, 89.08.160, 89.08.190, and 89.08.200.

Statute Being Implemented: RCW 89.08.190 and 89.08.200.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Bill Eller, special projects coordinator, Washington state conservation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Eller, P.O. Box 47721, Olympia, WA 98504-7721, 509-385-7512; Implementation and Enforcement: James Thompson, P.O. Box 47721, Olympia, WA 98504-7721, 564-233-9919.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required because the proposed rule relates only to internal governmental operations that are not subject to violation by a nongovernmental party. RCW 34.05.328 (5)(b)(ii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:

Is fully exempt.

May 28, 2026
Bill Eller

RDS-7182.1

AMENDATORY SECTION (Amending WSR 20-19-122, filed 9/21/20, effective 10/22/20)

WAC 135-110-110 Definitions. "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.

"Candidate optional information" means information provided by the candidate about their candidacy.

"Candidate required information" means the factual information a candidate must provide on the candidate information form to be eligible for election.

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

"Designee" means a person trained in the specific duties or roles of the election supervisor and appointed by the conservation district supervisors to perform those specific duties or roles on behalf of the election supervisor when the election supervisor is unavailable. The designee assumes the responsibilities of the election supervisor, ensuring that necessary tasks are completed even when the election supervisor is unavailable.

"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~~)) 300 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~~)) 20 or more acres devoted primarily to agricultural uses;

(b) Any parcel of land five acres or more, but less than ((~~twenty~~)) 20 acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to ((~~one hundred dollars~~)) $100 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~~)) $1,000 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~~)) 20 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.

"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.~~))

"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.

"Significant noncompliance" means 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.

"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.

AMENDATORY SECTION (Amending WSR 20-19-122, filed 9/21/20, effective 10/22/20)

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

(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;

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

(e) Shall be trained in election policy and procedure as per conservation commission requirements.

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

AMENDATORY SECTION (Amending WSR 10-21-084, filed 10/19/10, effective 11/19/10)

WAC 135-110-400 Conservation district to obtain list of registered voters. ((~~By the first election day~~)) Before a ballot request is fulfilled, the conservation district must obtain a current list of registered voters from the county auditor, secretary of state, or county elections offices, departments, or divisions for all territory within the conservation district boundary.

AMENDATORY SECTION (Amending WSR 20-19-122, filed 9/21/20, effective 10/22/20)

WAC 135-110-410 Conservation district must set deadline for ((~~requesting ballots be mailed or sent~~)) a voter to request a ballot. To provide sufficient time for voters to obtain and return ballots to the conservation district, and for the conservation district to fulfill a ballot request, the conservation district must set a reasonable deadline for a voter((~~s~~)) to request a ballot ((~~be sent or mailed to them~~)).

NEW SECTION

WAC 135-110-415 Fulfilling a ballot request. (1) A voter must provide information sufficient for the conservation district to verify an individual is a qualified district elector in the conservation district election before fulfilling a ballot request.

(2) If a conservation district cannot verify an individual is a qualified district elector, the voter shall be issued a provisional ballot.

(3) Only one ballot request per voter will be fulfilled. A voter who requests another ballot after a request has been fulfilled by the conservation district must be issued a provisional ballot, and the first ballot tallied by the conservation district is the only ballot that counts for that voter.

AMENDATORY SECTION (Amending WSR 10-21-084, 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, and the conservation district

must verify that each voter on the list is a qualified district elector before sending that voter a ballot. Any voter on the list who cannot be verified as a qualified district elector by the conservation district must be removed from the list and the ballot not provided to that voter.

NEW SECTION

WAC 135-110-425 Requested ballot lists. A conservation district may create, retain, maintain, and use a list of voters who request ballots be provided to them before each election. The conservation district must verify that each voter on the list is a qualified district elector before sending that voter a ballot. Any voter on the list who cannot be verified by the conservation district must be issued a provisional ballot.

AMENDATORY SECTION (Amending WSR 20-19-122, filed 9/21/20, effective 10/22/20)

WAC 135-110-460 Polling officers verify voters, issue ballots and count votes. (1) During poll-site, mail-in, remote, or any combination of these methods of election, a polling officer must verify a voter is a qualified district elector before issuing a ballot to the voter. If a polling officer cannot verify a voter is a qualified district elector before a ballot is issued, a provisional ballot shall be issued to the voter. The election supervisor may also perform these functions.

(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.

AMENDATORY SECTION (Amending WSR 20-19-122, filed 9/21/20, effective 10/22/20)

WAC 135-110-520 ((~~Ballots must be provided on~~)) Conservation districts must provide ballots on request and verify that an individual is a qualified district elector before fulfilling a request. (1) Ballots must be provided to eligible voters upon request((~~, and voters need not provide proof of any special condition to obtain a ballot~~)). A voter must provide information sufficient for the conservation district to verify the individual is a qualified district elector in the conservation district election before fulfilling a ballot request. If a conservation district cannot verify an individual is a qualified district elector, the voter shall be issued a provisional ballot.

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

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

(4) ((~~At a poll-site~~)) During an election, a provisional ballot shall 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.

AMENDATORY SECTION (Amending WSR 10-21-084, 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, remote, or a combination of these election methods, 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.

AMENDATORY SECTION (Amending WSR 20-19-122, filed 9/21/20, effective 10/22/20)

WAC 135-110-620 Conservation district must provide polling officers at each poll site and during the ballot request verification process in mail-in elections. The conservation district must provide at least two polling officers at each poll site, except the election supervisor or their designee may substitute for one polling officer at one poll site. The conservation district must provide at least two polling officers during a mail-in election when the conservation district is verifying voter eligibility during the ballot request fulfillment process. The election supervisor may perform these functions in place of one of the polling officers.

AMENDATORY SECTION (Amending WSR 20-19-122, filed 9/21/20, effective 10/22/20)

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, except in circumstances necessary to allow a disabled voter to cast their ballot, as set out in WAC 135-110-250.

(2) During a poll-site election, paper ballots must be placed into the ballot ((~~boxes~~)) box by the voter. Electronic ballots must assure at least the same level of security and privacy as provided by paper balloting.