

Rulemaking

Proposed Changes to Conservation District Election Rules (WAC 135-110)

Introduction

At the March 2026 business meeting, the State Conservation Commission (SCC) authorized staff to begin a rulemaking process related to conservation district (CD) elections – [WAC Chapter 135-110](#). This action was taken due to recent litigation related to CD elections in Thurston County Superior Court. Prior to the pursuit of rulemaking, SCC received guidance from our Assistant Attorney General (AAG) for action that might be needed based on the outcome of the lawsuit. Based on that guidance, we are proposing several changes to WAC 135-110 to clarify how a CD fulfills a ballot request during an election.

Background

When the Washington State Legislature enacts a law to authorize a state agency to take on a certain responsibility, agencies may be empowered to establish rules to provide detail and direction on how that law should be carried out. These rules are known as the Washington Administrative Code (WAC). Establishing and amending these rules requires a rulemaking process using procedures and timelines required by the Office of the Code Revisor, which ensures a transparent process and opportunities for public participation.

Through state law, SCC is authorized to establish CD election procedures, “The Commission shall establish procedures for elections, canvass the returns and announce the official results thereof.” ([RCW 89.08.190](#)) To carry out this responsibility, SCC has adopted election rules in WAC Chapter 135-110. The election rules exist to direct districts in the election, appointment, and replacement of supervisors. They also ensure fair treatment of all parties. CDs must comply with these rules for their elections.

SCC cannot make changes to the Revised Code of Washington (RCW) that governs elections through a rulemaking process. Changes to RCW can only occur through the legislative process.

SCC also develops guidance documents that support the implementation of the WAC, including the *Election and Appointment Guide* (EAG). Changes to the WAC will also require updates to these documents. More information on this phase is provided towards the end of this document.

Reason for proposed changes

On December 12, 2025, the Thurston County Superior Court resolved a lawsuit involving the SCC and its certification of the Clallam CD election of 2024. Following the lawsuit, SCC received guidance from our AAG on changes that are needed to address concerns identified in the court order.

Based on guidance from agency legal counsel, SCC staff determined updating the election WAC is necessary to meet the court order. At their March 19 business meeting, SCC

Commissioners authorized staff to begin rulemaking. At the direction of the Commission, this change to WAC will specifically address the outcome of the lawsuit.

The proposed changes focus on clarifying how a CD fulfills a ballot request in elections that are not exclusively poll-site elections and address inconsistencies in our WAC. Additional reasons for the proposed changes are:

- The proposed changes would protect the integrity of CD elections by providing clarity, certainty, and uniformity in requiring CDs to verify a voter's eligibility before fulfilling a ballot request, ensure that just one ballot is provided to a verified voter, and ensure that each ballot is again verified as coming from an eligible voter when it is tallied.
- The proposed changes would provide uniformity by requiring all CDs to fulfill ballot requests using the same methods, resulting in more consistency in CD elections.
- Verifying voters before providing a ballot more closely aligns with how ballots are provided for the general election so that the public, candidates, and others would have more certainty that a ballot is provided to verified voters.

Why not update all election WACs?

Moving forward, SCC is committed to reviewing the election rules and procedures on a regular basis. The changes currently being proposed address specific and timely concerns raised by the Thurston County Superior Court. These changes need to be implemented prior to the next election cycle, and we cannot wait for an overall review of the CD election WAC.

What are the proposed changes?

Proposed changes include the creation of two new rules (WAC 135-110-415 *Fulfilling a Ballot Request* and WAC 135-110-425 *Requested Ballot List*) and amendments to ten WAC sections:

1. WAC 135.110.110 Definitions.
2. WAC 135.110.230 Conservation district appoints elections supervisor.
3. WAC 135.110.400 Conservation district to obtain list of registered voters.
4. WAC 135.110.410 Conservation district must set deadline for requesting ballots be mailed or sent.
5. *WAC 135-110-415 Fulfilling a Ballot Request (NEW)*
6. WAC 135.110.420 Conservation district must not use certain lists.
7. *WAC 135-110-425 Requested Ballot List (NEW)*
8. WAC 135.110.460 Polling officers verify voters, issue ballots and count votes.
9. WAC 135.110.520 Ballots must be provided on request.
10. WAC 135.110.550 Poll lists must be used.
11. WAC 135.110.620 Conservation district must provide polling officers at each poll site.
12. WAC 135.110.640 Conservation district must assure privacy in voting.

[The draft proposed changes can be found here.](#) A summary of proposed changes includes:

1. Establishing that the CD board of supervisors, when appointing an election supervisor to run their election, may also appoint a designee who would be able to perform the same duties if the election supervisor is unavailable. *WAC 135.110.110 and .230.*

2. Requiring that before a ballot request from a voter can be fulfilled, the CD must verify that the voter is a qualified district elector. *WAC 135.110.400, .410, .415 (new), .420, .425 (new), .460, .520, and 550.*
3. Clarifying that a CD can only fulfill a ballot request by a voter by providing that voter with a single ballot, provided that voter has been verified by the CD as a qualified district elector. *WAC 135.110.400, .410, .415 (new), .420, .425 (new), .460, .520, and 550.*
4. Clarifying that in all cases when a voter requests a ballot, if a CD cannot verify the voter is a qualified district elector, the CD shall issue a provisional ballot to that voter. *WAC 135.110.410, .415 (new), .420, .425 (new), .460, .520, and 550.*
5. Requiring that, if a voter requests another ballot after a request has been fulfilled, the CD must issue a provisional ballot, and the first ballot tallied is the only ballot that counts for that voter. *WAC 135-110-415.*
6. Clarifying that only polling officers, and the election supervisor if acting as a polling officer, can verify if a voter is a qualified district elector. *WAC 135.110.400, .410, .415 (new), .420, .425 (new), .460, .520, .550, and .620.*
7. Requiring that, if the CD uses a list as described in *WAC 135-110-420* to provide an unrequested ballot to a voter, the CD must verify each voter on that list as a qualified district elector before providing a ballot. *WAC 135-110-420.*
8. Requiring that, if the CD maintains a list from prior years of voters who have requested the CD provide them with a ballot in future elections, the CD must verify each voter on that list is a qualified voter before using that list to fulfill a request in the current election. If the CD cannot verify that a voter on such a list is a qualified district elector, the CD must provide the voter with a provisional ballot. *WAC 135-110-425 (new).*
9. Clarifying that during a poll-site election, a voter must place their ballot into the ballot box themselves. *WAC 135-110-640.*

The proposed changes will require additional time and effort for the election supervisor and polling officer(s) to verify each voter when ballot requests are fulfilled. These duties can only be performed by the CD's election supervisor and polling officers (see *WAC 135-110-440*).

Effective date of changes

The goal is to have this process done and all election guidance updated before the next election cycle in January - March 2027, which requires the SCC to adopt the suggested updates to the WAC at their September 17 business meeting.

If that happens, these changes will be effective 31 days after the filing of the final rules — approximately October 31, 2026. The final changes will be incorporated into SCC's regular election training for CDs in late September or early October.

Engagement for CDs and the public

SCC must follow the rulemaking process and procedures set out by the OCR and RCW 1.21 when updating or changing WAC 135-110. That process includes notice of the proposed rule changes, a public comment period, public hearing, and then adoption by the commission.

SCC is pursuing multiple methods to provide information about the process and proposed changes to the public and CDs, including:

- [Posting information and updates on the SCC website.](#)
- Engaging with CD managers at the May 14 CD roundtable.
- Providing regular updates at each SCC business meeting.
- Providing an update at Washington Association of District Employees 2026 conference.
- Establishing a public comment period from June 17 through July 31.
- Holding a hybrid public hearing on Thursday, July 30 at 4 p.m. at the Best Western Plus Lacey Inn and Suites, 8326 Quinault Dr NE, Lacey, WA 98516.
- Providing multiple means for comment, including a public hearing, form and email.

How to provide public comment

The official public comment period is June 17 through July 31. Written comments can be submitted through Formstack: <https://www.scc.wa.gov/files/pol-rulemaking-comment-form>

For oral public comments, a hybrid public hearing will be held on Thursday, July 30 at 4 p.m. at [the Best Western Plus Lacey Inn and Suites, 8326 Quinault Dr NE, Lacey, WA 98516](#). The public hearing can be attended virtually. To attend, please register here: www.scc.wa.gov/files/pol-rulemaking-public-hearing

Comments can also be emailed to Bill Eller at beller@scc.wa.gov. **Comments must be received by July 31, 2026, at 5 p.m.**

Changes to SCC guidance documents

SCC also provides other materials to support CDs with the administration of their elections. Those include reporting forms, guides, checklists, policy statements, and others. For example, the *EAG* contains procedures that support CDs in carrying out the WAC. SCC will update those materials shortly after the completion of rulemaking to reflect the changes to the WAC.

We anticipate the proposed changes to these materials coming forward at the SCC business meeting on September 17, after which there will be a 45-day public comment period. Changes to these materials will need to be adopted at the December 3 business meeting so they will be effective for the 2027 election cycle. Training on the update to these materials will be provided for CD election supervisors in early December.

Contact

If you have any questions, please contact: Bill Eller, SCC Special Projects Coordinator, beller@scc.wa.gov, 509-385-7512