WASHINGTON STATE

CONSERVATION COMMISSION

CONCISE EXPLANATORY STATEMENT AND RESPONSIVENESS SUMMARY

CHAPTER 135-100 WAC
SPECIAL ASSESSMENTS FOR NATURAL RESOURCE CONSERVATION

APRIL 30, 2007

As required by the Washington State Administrative Procedures Act - RCW 34.05

CONCISE EXPLANATORY STATEMENT AND RESPONSIVENESS SUMMARY

CHAPTER 135-100 WAC
SPECIAL ASSESSMENTS FOR NATURAL RESOURCE CONSERVATION

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. DIFFERENCES BETWEEN THE PROPOSED AND FINAL RULE 1

III. PUBLIC COMMENTS SUMMARIZED 6

Commenters 6
Comments by Section 7

IV. SUMMARY OF PUBLIC INVOLVEMENT OPPORTUNITIES 16

V. APPENDICES 17

Appendix 1 – Designated Web Page 18
Appendix 2 – WACD November 2006 Newsletter 20
Appendix 3 – WACD 2006 Annual Meeting Program 21
Appendix 4 – Focus Sheet 22
Appendix 5 – Electronic Notification 23
Appendix 6 – Press Release 25
Appendix 7 – Public Hearing Notice 26
Appendix 8 – Published Notices 27
Appendix 9 – Commission Special Meeting Notices 28
Appendix 9 – Commission Special Meeting Notices 29
Appendix 10 – Written Public Comments 30
Appendix 11 - Transcript of Public Comments 39
Appendix 12 – WSR Rule Proposals 42

WASHINGTON STATE CONSERVATION COMMISSION

CONCISE EXPLANATORY STATEMENT

I. Introduction

It is the intent of the Washington State Conservation Commission to interpret and clarify RCW 89.08.400 in this rule in order to assist conservation districts and county legislative authorities in their efforts to develop and impose a system of assessments for the conservation of renewable natural resources. The Conservation Commission believes the interpretations and clarifications provided in the proposed rule will increase confidence of all parties, resulting in more conservation districts and county legislative authorities choosing to implement this local funding mechanism. The proposed rule is intended to encourage public involvement in conservation district program planning, special assessments, and the funding of conservation activities and programs most needed and desired by local communities.

The Conservation Commission is authorized by RCW 89.08.040 and RCW 89.08.070 to adopt this rule.

This rule was adopted at a Special Meeting of the Conservation Commission on April 30, 2007 and becomes effective June 1, 2007.

II. Differences Between the Proposed and Final Rule

The Conservation Commission made several changes to this interpretive rule following publication of the proposed rule language. These changes are not substantial.

Section: WAC 135-100-020, third paragraph

Final language:

> "Special benefits to lands" means tangible improvements to renewable natural resources. "Special benefits to lands" can also mean intangible improvements to renewable natural resources <u>from conservation programs and activities</u>, including, but not limited to, education and outreach activities and programs that result, directly or indirectly, in improvements to renewable natural resources<u>, or other intangible benefits that accrue to lands</u>. "Special benefits to lands" does not necessarily mean that appraised property values are improved or altered as a result of the activities and programs funded by the special assessment.

Explanation of changes:

Public comment suggested other intangible benefits could accrue to lands, and such benefits could be measured by ecological or other valuation methodologies such as avoided cost and replacement cost. This suggestion is in keeping with the spirit and intent of WAC 135-100-020 and the rule language was modified accordingly.

Section: WAC 135-100-030

Final language:

> The purpose of conservation district special assessments is to help conservation districts implement their authorized conservation program<u>, which includes a comprehensive long-range plan and a supplemental annual work plan</u>.

> Funds generated by special assessments for natural resource conservation ~~may only~~ must be used to benefit lands assessed.

Explanation of changes:

In the interest of providing clarity, one commenter asked that the same language expressed in the definition of "authorized conservation program" be included in this section. We modified WAC 135-100-030 accordingly.

Several commenters asked that the second sentence be deleted. The agency believes it is important to retain the second sentence of WAC 135-100-030 because the underlying theory of special assessments is that property particularly benefited by an improvement should bear the cost of the improvement to the extent it is specially benefited. However, the restrictive nature of the proposed language could have had the unintended effect of disqualifying a special assessment on the basis that the assessment might have an incidental benefit to lands not assessed. Therefore, we modified the second sentence of WAC 135-100-030 to clarify that special assessments must be used to benefit lands assessed while allowing that benefits may also accrue to lands not assessed.

Section: WAC 135-100-040

Final language:

> The county legislative authority has sole authority to impose a special assessment for natural resource conservation on lands within the conservation district ~~lands~~ and within the boundaries of the county.

Explanation of changes:

During a special meeting held on April 30, 2007 to approve the final rule, the Conservation Commission responded to concerns about clarity by modifying the rule language.

Section: WAC 135-100-060

Final language:

> The minimum term of a special assessment for natural resource conservation ~~should be at least two years~~ is one year. The maximum term is ten years. Conservation district special assessments can be renewed subject to WAC 135-100-250. The term length must be found to adequately serve the public interest as determined by the county legislative authority as required by WAC 135-100-150.

Explanation of changes:

A few commenters questioned why the agency suggested a minimum term of two years for the assessment when RCW 89.08.400 was silent on this point. We originally provided this suggested minimum term in response to stakeholder input during drafting of the proposed rule language. An unintended consequence of suggesting a minimum term of more than one year could be a chilling effect in counties where the county legislative authority is supportive of a special assessment for natural resource conservation but does not wish to establish a special assessment for more than one year.

Making the connection between a special assessment and serving the public interest is probably more difficult for a one-year assessment than for multi-year assessments.

Therefore, we modified the rule language in WAC 135-100-060 to set a minimum assessment term of one year, but also remind conservation districts and county legislative authorities that the public interest must be served by the assessment as imposed by the county legislative authority.

During a special meeting held on April 30, 2007 to approve the final rule, the Conservation Commission clarified that special assessments can be renewed subject to WAC 135-100-250.

Section: WAC 135-100-070, third paragraph

Final language:

> Public lands owned by state governmental entities are subject to the special assessment if such lands will receive special benefits from the district's authorized conservation program. In addition, the ~~conservation district~~ county legislative authority must follow the requirements described in ~~chapter 79.44~~ RCW 79.44 when assessing such lands. The conservation district may provide such assistance as needed for the county legislative authority to comply with RCW 79.44.

Explanation of changes:

One commenter pointed out that RCW 79.44 defines an assessing district as a municipal corporation or public agency having statutory authority to levy local improvements or other assessments. Conservation districts are explicitly denied this authority in RCW 89.08.220. We conclude that the duty to comply with notification and certification requirements identified in RCW 79.44 rests with the county legislative authority.

However, the conservation district is probably going to be more familiar with land classes and resource needs on each class of lands than the county. Thus, it seems apparent that if counties are expected to provide notice and convey the information required by RCW 79.44 to state agencies that own land, without assistance by the conservation district, it may have a chilling effect on the conservation district's proposal for a special assessment.

We modified WAC 135-100-070 to clarify that it is the county's duty to comply with the requirements set forth in RCW 79.44, and encouraging conservation districts to assist counties in meeting those requirements.

Section: WAC 135-100-090, second paragraph

Final language:

> For qualified forest lands, no per-parcel shall ~~may~~ be charged. In lieu of a per-parcel charge, each owner of more than one parcel of qualified forest lands may be charged up to three dollars a year if their forest lands will benefit from the conservation district's conservation program.

Explanation of changes:

During review of the proposed rule, the Conservation Commission identified that using the word "may" might imply this requirement is discretionary. As described in RCW 89.08.400(3), it is not discretionary. Therefore, we modified the rule language to echo the language used in statute.

Section: WAC 135-100-100

Final language:

> ~~When proposing a system of assessments~~ RCW 89.08.400(2) imposes additional public notice requirements for special assessment public hearings. In addition to notice requirements imposed by the Open Public Meetings Act, the conservation district and county legislative authority must also comply with notice requirements for public hearings described in RCW 89.08.400(2).

Explanation of changes:

One commenter familiar with county operations noted that county legislative authorities may not be aware that RCW 89.08.400(2) prescribes public notice requirements that may exceed those in RCW 42.30 Open Public Meetings Act. We added this information to WAC 135-100-100 to help readers identify these additional requirements.

Section: WAC 135-100-110, third paragraph

Final language:

> The conservation district should ~~work~~ make reasonable efforts to educate affected landowners about the costs and benefits of the special assessment well in advance of the conservation district formal public hearing(s).

Explanation of changes:

One commenter felt that changing the rule language to suggest more flexibility in how conservation districts sought to educate affected landowners would be beneficial. We concur and modified WAC 135-100-110 accordingly.

Section: WAC 135-100-120

Final language:

> Filing means the county legislative authority, or its authorized representative such as the county auditor or clerk, has physically received the proposed system of assessments and the proposed budget by the close of business on or before the first day of August. Along with the proposed system of assessments and proposed budget, ~~the county should receive~~ a copy of the resolution passed by the conservation district board of supervisors is to be provided to the county, ~~that~~ ask~~s~~ing the county legislative authority to impose a special assessment for natural resource conservation consistent with RCW 89.08.400 and this rule.

Explanation of changes:

During a special meeting held on April 30, 2007 to approve the final rule, the Conservation Commission clarified the information to be provided to the county legislative authority when a conservation district files a proposed system of assessments with the county legislative authority.

Section: WAC 135-100-130

Final language:

> After the county legislative authority has received the proposed system of assessments and proposed budget from the conservation district, the county must hold at least one public hearing on the ~~proposal~~ proposed system of assessments as filed by the conservation district with the county legislative authority.

Explanation of changes:

One commenter identified a potential point of confusion in WAC 135-100-130. As proposed, the rule language might have been interpreted as meaning the county legislative authority holds a public hearing on their modifications to the conservation district's proposed system of assessments. We interpret RCW 89.08.400 as directing the county legislative authority to hold a hearing on the proposed system of assessments as submitted to the county by the conservation district, and we have modified WAC 135-100-130 to help clarify this point.

Section: WAC 135-100-140

Final language:

> After the county's public hearing, and before the county legislative authority takes final action on the conservation district request to impose a special assessment, the county legislative authority may modify or amend the proposed system of assessments. The conservation district may provide such assistance as needed for the county legislative authority to modify or amend the proposed system of assessments. The county legislative authority may not modify a conservation district's proposed budget or alter the intended allocation of special assessment funds.

Explanation of changes:

We modified WAC 135-100-140 to harmonize it with a change we made to WAC 135-100-160. To clarify our interpretation that the conservation district should work in concert with the county legislative authority as the county modifies or amends the proposed system of assessments, we added language explicitly identifying this role.

Section: WAC 135-100-160

Final language:

> **WAC 135-100-160 Conservation district may withdraw ~~or modify~~ assessment.** The conservation district, through official action of the conservation district board of supervisors, may withdraw ~~or modify~~ the proposed system of assessments at any time before a county legislative authority takes final action on the proposed system of assessments ~~to impose the system of assessments~~.

Explanation of changes:

If significant changes are made to a proposed system of assessments after public hearings have concluded, and such changes materially affect those who will be paying the assessment fees or receiving services through the special assessment, there should be an opportunity for public comment on the proposed modifications. RCW 89.08.400 does not clearly provide for this situation, other than to start the process over again the following year.

One commenter asked that we modify the rule language to require that all material modifications made by a conservation district to the proposed system of assessments must occur before the August 1 deadline. We modified WAC 135-100-160 to explain that a conservation district to withdraw the proposed system of assessments before the county legislative authority takes final action.

Section: WAC 135-100-230

Final language:

> WAC 135-100-230 Conservation district to ~~keep~~ inform landowners ~~informed~~. The conservation district should make reasonable efforts to inform landowners with lands to be assessed how their assessment was calculated.

Explanation of changes:

This change echoes the change in rule language made to WAC 135-100-110.

Section: WAC 135-100-240, third paragraph

Final language:

> If a petition meeting these requirements is filed, the county may not spread or collect the assessment in the following year, and may not spread or collect the assessment until the county legislative authority acts upon the petition.

Explanation of changes:

We have clarified WAC 135-100-240 to be sure the intent stated in RCW 89.08.400(5) comes through in the rule language.

In response to one commenter, we reviewed what should happen to a petition submitted to the county legislative authority as authorized by RCW 89.08.400(5). We interpret statute to mean the county legislative authority has a duty to act upon the petition.

III. Public Comments Summarized

Commenters

The Conservation Commission received comments from six individuals or organizations.

Comment No.	Commenter Name	Representing
1	George Boggs	Self
2 through 10	Geoff Reed	King Conservation District
11	Rich Baden	Spokane County Conservation District
12	Merrill Ott	Stevens County
13	Michael Tobin	North Yakima Conservation District
14 through 16	Sara Hemphill	King Conservation District

Comments by Section

Section No.	Section Title	Comment No.
WAC 135-100-010	Purpose of this rule	
WAC 135-100-020	Definitions	2
WAC 135-100-030	Purpose and use of assessments	3, 11, 14
WAC 135-100-040	County has authority to impose assessment	4
WAC 135-100-050	System of assessments	
WAC 135-100-060	Term of assessment	5, 16
WAC 135-100-070	Public lands may be assessed	6
WAC 135-100-080	Assessment rates	7
WAC 135-100-090	Forest lands may be assessed at special rates	
WAC 135-100-100	Special notice requirements for public hearings	12
WAC 135-100-110	Conservation district public hearing before August 1	8
WAC 135-100-120	Conservation district proposal and budget filed with county	
WAC 135-100-130	County public hearing after receiving proposal	15
WAC 135-100-140	County may modify proposed system after public hearing	
WAC 135-100-150	County imposes system of assessments	
WAC 135-100-160	Conservation district may withdraw assessment	9
WAC 135-100-170	Conservation district may alter assessment on parcels	
WAC 135-100-180	Conservation district prepares special assessment roll	
WAC 135-100-190	County assessor applies assessment to tax rolls	
WAC 135-100-200	County treasurer collects assessments	
WAC 135-100-210	County can recover actual costs	
WAC 135-100-220	Conservation district to receive all remaining funds	
WAC 135-100-230	Conservation district to inform landowners	10
WAC 135-100-240	Landowners may petition the county to object	1
WAC 135-100-250	Renewal of assessment	

Comment #1

Commenter: George Boggs

Regarding WAC 135-100-240, the commenter stated concern this section would afford a small percentage of landowners the ability to veto an assessment. The commenter also expressed concern about the legal basis for this section of the proposed rule, and about the lack of reasons to justify a landowner petition, and the lack of any process for handling the petition.

Agency Response

The Conservation Commission felt it necessary to interpret statutory language expressed in RCW 89.08.400(5) regarding the deadline for filing a petition objecting to the assessment. We found that although statute says the petition must be filed prior to the fifteenth day of December in the year the county legislative authority imposes the assessment, some people felt this deadline was the close of business on the fourteenth day of December, while others believed the deadline to be the close of business of the fifteenth day.

We did not include in rule the reasons that might justify a landowner petition objecting to the system of assessments because statute does not require it.

The commenter raises a good point about the lack of process once a petition is filed with the county legislative authority. While statute is silent on this point, the Conservation Commission interprets RCW 89.08.400(5) as intending to provide a non-judicial mechanism

for affected landowners to seek reconsideration of the special assessment by petitioning the county legislative authority. This would effectively suspend the special assessment until such time as the county legislative authority takes action on the petition, which in any event cannot be collected the year following the filing of a petition.

We have modified WAC 135-100-240 as follows:

> **If a petition meeting these requirements is filed, the county may not spread or collect the assessment in the following year, and may not spread or collect the assessment until the county legislative authority acts upon the petition.**

Comment #2

Commenter: Geoff Reed, King Conservation District

The commenter expressed the view that the definition of "special benefits to lands" in WAC 135-100-020 should be expanded to include other intangible benefits that accrue to lands, where such benefits can be measured by ecological or other valuation methodologies. Examples provided by the commenter included measurable benefits including, but not limited to, "avoided cost" and "replacement cost" methodologies.

The commenter proposed the definition of "special benefits to lands" be amended as shown below by underlined text:

> **"Special benefits to lands"** means tangible improvements to renewable natural resources. **"Special benefits to lands"** can also mean intangible improvements or benefits to renewable natural resources from conservation programs and activities, including, but not limited to, education and outreach activities and programs that result, directly or indirectly, in improvements to renewable natural resources, or other intangible benefits that accrue to lands. **"Special benefits to lands"** does not necessarily mean that appraised property values are improved or altered as a result of the activities and programs funded by the special assessment."

Agency Response

The commenter's proposed modifications are in keeping with the spirit and intent of WAC 135-100-020.

We have modified WAC 135-100-020 as follows:

> **"Special benefits to lands" means tangible improvements to renewable natural resources. "Special benefits to lands" can also mean intangible improvements or benefits to renewable natural resources from conservation programs and activities, including, but not limited to, education and outreach activities and programs that result, directly or indirectly, in improvements to renewable natural resources, or other intangible benefits that accrue to lands. "Special benefits to lands" does not necessarily mean that appraised property values are improved or altered as a result of the activities and programs funded by the special assessment."**

Comment #3

Commenter: Geoff Reed, King Conservation District

The commenter proposed deleting the second sentence of WAC 135-100-030, explaining that the requirement that special assessment funds only be used to benefit lands assessed may have unintended consequences. Specifically, under the proposed language, a conservation district could not use any conservation assessment funds for conservation programs on lands that are not assessed, even if the conservation programs benefited renewable natural resources or lands outside the areas where conservation work was performed.

Agency Response

One of the purposes of the proposed rule is to provide guidance for the development of special assessments. The underlying theory of special assessments is that property particularly benefited by an improvement should bear the cost of the improvement to the extent is specially benefited. Therefore, we believe it is important to retain the second sentence of WAC 135-100-030.

However, the Conservation Commission recognizes that the language as proposed may have the unintended effect of disqualifying a special assessment on the basis that the assessment might have an incidental benefit to lands not assessed.

We have modified WAC 135-100-030 as follows:

> **Funds generated by special assessments for natural resource conservation ~~may only~~ must be used to benefit lands assessed.**

Comment #4

Commenter: Geoff Reed, King Conservation District

The commenter identified a concern with the interpretation of "sole authority" of a county legislative authority as presented in WAC 135-100-040. Specifically, the commenter is concerned the phrase "sole authority" could be viewed as granting the county the discretion to deny a conservation district's proposed system of assessments without a public hearing to determine whether the public interest and special benefit requirements of RCW 89.08.400 are satisfied. The commenter also stated a concern with a county legislative authority modifying the program of work and budget developed by the conservation district.

The commenter requests the following modification to WAC 135-100-040:

> "The county legislative authority has sole authority to impose a special assessment for natural resource conservation on conservation district lands within the boundaries of the county. Once a proposed system of assessments is filed with the county legislative authority, the county legislative authority is required to hold a public hearing on the proposed system of assessments in order to determine whether the public interest and special benefit requirements of RCW 89.08.400 are satisfied. After the hearing, the county legislative authority may accept, or modify and accept, the proposed system of assessments if it finds that both the public interest will be served by the imposition of the special assessments and that the special assessments to be imposed on any land will not exceed the special benefit the land receives or will receive from the activities of the conservation district."

Agency Response

RCW 89.08.400 imposes some duties on conservation districts and on county legislative authorities.

In WAC 135-100-130, the Conservation Commission has already addressed the requirement for the county legislative authority to hold a public hearing on the proposed system of assessments. That section clearly states the county legislative authority must hold at least one public hearing on the proposed system of assessments after it has been filed with them by the conservation district.

WAC 135-100-150 identifies the county must find the proposed system will serve the public interest and that special benefits to lands will meet or exceed the amount to be assessed.

We identify the right of the county legislative authority to modify the proposed system of assessments in WAC 135-100-140.

With regard to the concern about a county legislative authority modifying the conservation district's program of work or budget, we believe WAC 135-100-140 and WAC 135-100-020 provide clarity. In WAC 135-100-140, the agency has interpreted that the county legislative authority may modify the proposed system of assessments. In WAC 135-100-020, we have defined the proposed system of assessments narrowly. We knowingly excluded the budget or intended allocation of funds from the list of things the county legislative authority could modify.

Based on the above, we find no need to modify WAC 135-100-040 as proposed by the commenter.

Comment #5

Commenter: Geoff Reed, King Conservation District

The commenter expressed concern with the minimum term suggested in WAC 135-100-060, particularly in that no minimum is identified in RCW 89.08.400. The commenter also expressed concern that our use of the term "should" could be misconstrued as meaning a two-year minimum was mandatory, not discretionary.

Agency Response

RCW 89.08.400 does not identify a minimum term for an assessment. Since RCW 89.08.400(4) requires the special assessment to be spread on the tax roll by the assessor and collected by the treasurer, the logical minimum term is one year (equivalent to one property tax cycle). The Conservation Commission sought input from stakeholders during development of the rule language, and many contributors asked us to include a minimum term of more than one year. We included a suggested term – "should be at least two years" – in WAC 135-100-060 in response to stakeholder input.

We have modified WAC 135-100-060 as follows:

The minimum term of a special assessment for natural resource conservation ~~should be at least two years~~ is one year. The maximum term is ten years. The term length must be found to adequately serve the public interest as determined by the county legislative authority as required by WAC 135-100-150.

Comment #6

Commenter: Geoff Reed, King Conservation District
The commenter interprets the requirement expressed in WAC 135-100-070 as properly placed on the county legislative authority, not on the conservation district.

Agency Response

WAC 135-100-070 instructs conservation districts to follow the requirements described in RCW 79.44 when assessing public lands.

However, RCW 79.44 defines an assessing district as a municipal corporation or public agency having power to levy local improvement or other assessments. RCW 89.08.220 specifically denies this authority to conservation districts.

In RCW 89.08.400(2), the power to levy a conservation district special assessment is vested in the county legislative authority. We conclude the duty to comply with RCW 79.44 rests with the county legislative authority.

Since the conservation district determines land classifications, the program of work, and the budget, it is reasonable to expect the conservation district will assist the county legislative authority in complying with the requirements described in RCW 79.44.

We have modified WAC 135-100-070 as follows:

Public lands owned by state governmental entities are subject to the special assessment if such lands will receive special benefits from the district's authorized conservation program. In addition, the ~~conservation district~~ county legislative authority must follow the requirements described in ~~chapter 79.44~~ RCW 79.44 when assessing such lands. The conservation district may provide such assistance as needed for the county legislative authority to comply with RCW 79.44.

Comment #7

Commenter: Geoff Reed, King Conservation District
The commenter asked for clarification that the uniform per-acre amount identified in WAC 135-100-080 may be a fraction of a cent.

Agency Response

WAC 135-100-080 states, in part, that the uniform per-acre amount must be greater than zero cents per acre and cannot exceed ten cents per acre. We interpret this from the language in RCW 89.08.400(3) which states, in part, that an annual assessment rate shall be stated as either a uniform annual per-acre amount, or as an annual flat rate per parcel plus a uniform annual rate per-acre amount, not to exceed ten cents per acre. Statutory language does not include a provision for an annual flat rate with no per-acre amount, but neither does the statute state a minimum. We conclude the minimum must be greater than zero cent per acre, and can be a fractional cent. We believe that the rule as proposed reflects this, and that no modification is necessary.

Comment #8

Commenter: Geoff Reed, King Conservation District

The commenter seeks clarification of what work should be done to educate affected landowners about the costs and benefits of a conservation district special assessment, and proposes the following modification to rule language in WAC 135-100-110:

> The conservation district should ~~work~~ make reasonable efforts to educate affected landowners about the costs and benefits of the special assessment well in advance of the conservation district formal public hearing(s).

Agency Response

We have modified WAC 135-100-110 as follows:

> **The conservation district should ~~work~~ make reasonable efforts to educate affected landowners about the costs and benefits of the special assessment well in advance of the conservation district formal public hearing(s).**

The rule does not explicitly state affected landowners must be informed by direct mail. The Conservation Commission expects conservation districts will use reasonable, efficient mechanisms to reach their constituents, and those mechanisms may include, but are not limited to: general outreach efforts; newsletters; newspaper articles; mailings; community meetings and workshops; internet postings; and flyers.

Comment #9

Commenter: Geoff Reed, King Conservation District

The commenter identifies a concern with insufficient public notice if a conservation district made material modifications to a proposed system of assessments after the August 1 deadline for filing with the county legislative authority.

The commenter suggests the following addition to WAC 135-100-160:

> The conservation district, through official action of the conservation district board of supervisors, may withdraw or modify the proposed system of assessments at any time before a county legislative authority takes final action to impose the system of assessments. To the extent a conservation district makes material modifications to its proposed system of assessments, such changes must occur prior to August 1 so that the public hearing requirements of RCW 89.08.400 may be satisfied as to the modified proposed system of assessments.

Agency Response

The Conservation Commission has been, and continues to be, a strong advocate for public involvement in all conservation district programs and activities.

The commenter makes the point that under WAC 135-100-160 as currently proposed, a conservation district could change the proposed system of assessments before final action is taken by the county legislative authority, but after the conservation district has held a public hearing on the proposed system of assessments.

If significant changes are made to a proposed system of assessments after public hearings have concluded, and such changes materially affect those who will by paying the assessment fees or receiving services through the special assessment, we agree that there should be an opportunity for public comment on the proposed modifications. In addition, the county would also need to hold a public hearing on the modified proposal.

We have modified WAC 135-100-160 as follows:

WAC 135-100-160 Conservation district may withdraw ~~or modify~~ assessment. The conservation district, through official action of the conservation district board of supervisors, may withdraw ~~or modify~~ the proposed system of assessments at any time before a county legislative authority takes final action to impose the system of assessments.

If, after withdrawing a proposed system of assessments, a conservation district wishes to propose a modified system of assessments, the district can follow the same process under RCW 89.08.400 as it did with the system of assessments originally proposed, bearing in mind the August deadline clarified in WAC 135-100-110.

In addition, we will also add language to WAC 135-100-140 to clarify that a conservation district may assist the county legislative authority with modifications to a proposed system assessments after it has been filed with the county legislative authority.

We have modified WAC 135-100-140 as follows:

WAC 135-100-140 County may modify proposed system after public hearing. After the county's public hearing, and before the county legislative authority takes final action on the conservation district request to impose a special assessment, the county legislative authority may modify or amend the proposed system of assessments. The conservation district may provide such assistance as needed for the county legislative authority to modify or amend the proposed system of assessments. The county legislative authority may not modify a conservation district's proposed budget or alter the intended allocation of special assessment funds.

Comment #10

Commenter: Geoff Reed, King Conservation District

The commenter expressed concern that the phrase "keep landowners informed" in WAC 135-100-230 may be confusing, and offered this modification:

WAC 135-100-230 Conservation district to ~~keep~~ inform landowners ~~informed~~. The conservation district should make reasonable efforts to inform landowners with lands to be assessed how their assessment was calculated.

Agency Response

We have modified WAC 135-100-230 as follows:

WAC 135-100-230 Conservation district to ~~keep~~ inform landowners ~~informed~~. The conservation district should make reasonable efforts to inform landowners with lands to be assessed how their assessment was calculated.

Comment #11

Commenter: Rich Baden, Spokane County Conservation District
The commenter suggested striking the second sentence in WAC 135-100-030, and to amend the first sentence as follows:

> The purpose of conservation district special assessments is to help conservation districts implement their authorized conservation program, that includes a comprehensive long-range plan and a supplemental work plan.
>
> ~~Funds generated by special assessments for natural resource conservation may only be used to benefit lands assessed.~~

Agency Response

With regard to striking the second sentence in WAC 135-100-030, please see our response to Comment #3.

While the amendment to the first sentence restates what is already in the definition of "authorized conservation program" in WAC 135-100-020, in the interest of clarity it may be beneficial to include the same language in WAC 135-100-030.

We will modify WAC 135-100-030 as follows:

> **The purpose of conservation district special assessments is to help conservation districts implement their authorized conservation program, which includes a comprehensive long-range plan and a supplemental annual work plan.**

Comment #12

Commenter: Merrill Ott, Stevens County Commission
The commenter spoke in favor of the rule.

The commenter expressed a desire to assure that property owners have proper access to appeal and proper access to any changes in the proposed system of assessments. The commenter noted that if modifications are made to the proposed system of assessments, adequate public notification must be provided.

The commenter suggested adding clarifying language to WAC 135-100-100 to point out that notice requirements exceed those described in the Open Public Meetings Act.

Agency Response

We appreciate the interest demonstrated by participating in the public hearing.

While RCW 89.08.400 does not express requirements to keep the affected public informed other than through public hearings, we believe providing transparency, information and opportunities for involvement is a duty of all public bodies. Accordingly, we tried to incorporate additional provisions into the rule language to help protect the rights of citizens and promote public involvement, notably in WAC 135-100-110 and WAC 135-100-230.

We have modified WAC 135-100-100 as follows:

> **RCW 89.08.400(2) imposes additional public notice requirements for special assessment public hearings. In addition to notice requirements imposed by the Open Public Meetings Act. ~~When proposing a system of assessments,~~ the conservation district and county legislative authority must also comply with notice requirements for public hearings described in RCW 89.08.400(2).**

Comment #13

Commenter: Michael Tobin, North Yakima Conservation District
The commenter spoke in favor of the proposed rule.

Agency Response

We appreciate the investment made in attending the public hearing.

Comment #14

Commenter: Sara Hemphill, King Conservation District
The commenter spoke in favor of the rule.

The commenter identified that special benefits are more than just tangible improvements, that there are other benefits that run with the work the conservation district does.

The commenter suggested deleting the second sentence in WAC 135-100-030.

Agency Response

We appreciate the participation and suggestions presented.

Regarding the requested deletion in WAC 135-100-030, please see the agency response to comment #3.

Comment #15

Commenter: Sara Hemphill, King Conservation District
The commenter noted the possibility of misinterpreting the language in WAC 135-100-130 such that a county legislative authority would present their version of the proposed system of assessments instead of the conservation district's proposal.

Agency Response

We have modified WAC 135-100-130 as follows:

> **After the county legislative authority has received the proposed system of assessments and proposed budget from the conservation district, the county must hold at least one public hearing on the ~~proposal~~ proposed system of assessments as filed by the conservation district with the county legislative authority.**

Comment #16

Commenter: Sara Hemphill, King Conservation District
The commenter expressed concern that the rule language in WAC 135-100-060 places a two-year minimum term on a special assessment but there is no clear authority for that interpretation in RCW 89.08.400.

Agency Response

Regarding the two-year minimum term described in WAC 135-100-060, please see the agency response to comment #5.

IV. Summary of Public Involvement Opportunities

In July of 2006, the Conservation Commission authorized Commission staff to begin the rulemaking process for district procedures in implementing special assessments. Discussion between conservation districts, stakeholders, and partners began early on in the rulemaking process. Four work sessions were held before drafting the rule: two in Spokane; one in Ellensburg; and one in Lacey. Three public hearings were held: one in Spokane, one in Ellensburg, and one in Lacey. Two Special Meetings of the Conservation Commission were held to adopt the draft Chapter 135-100 WAC. All notices were sent electronically to conservation districts, local county legislative authorities, and partners, published in the Courthouse Journal (except the Conservation Commission Special Meetings), and posted on our website.

- October 18, 2006 – Filed the CR101, published in the State Register.
- November 2, 2006 – Washington Association of Conservation Districts November Newsletter.
- November 28, 2006 – Work Session on Special Assessments held during the 2006 Washington Association of Conservation Districts Annual Meeting. (38 conservation district supervisors and staff attended.
- January 8, 2007 – Press Release for upcoming Informal Work Sessions posted on our website.
- January 12, 2007 – Notice of Informal Work Sessions published in the Courthouse Journal, Issue No. 1, 2007.
- January 17, 2007 – CR101 and notice of intent of rule posted online with a dedicated page on rulemaking. www.scc.wa.gov/rules.
- January 20, 2007 – Notice of Informal Work Sessions were electronically sent to all conservation districts, local county legislative authorities, and partners.
- January 23, 2007 – Informal Work Session held in Spokane. (7 people attended)
- January 24, 2007 – Informal Work Session held in Ellensburg. (4 people attended)
- January 25, 2007 – Informal Work Session held in Lacey. (5 people attended)
- February 14, 2007 – Special Meeting Notice of the Conservation Commission and draft Chapter 135-100 WAC sent electronically to conservation districts, local county legislative authorities, and partners.

- February 20, 2007 – Special Meeting of the Conservation Commission to approve submittal of the draft Chapter 135-100 WAC.
- March 6, 2007 – Notice of Public Hearings sent electronically to conservation districts, local county legislative authorities, and partners. Also posted on our website.
- March 8, 2007 – CR102 published in the State Register.
- March 9, 2007 – Notice of Public Hearings published in the Courthouse Journal, Issue No. 9, 2007.
- March 27, 2007 – Public Hearing held in Spokane. (4 people attended)
- March 28, 2007 – Public Hearing held in Ellensburg. (4 people attended)
- March 29, 2007 – Public Hearing held in Lacey. (2 people attended)
- April 30, 2007 – Special Meeting of the Conservation Commission to adopt WAC 135-100 (CR103). Notice sent to conservation districts and local county legislative authorities.

V. Appendices

The following materials are provided in order of listing:

1. Dedicated Web Page to Rulemaking
2. Washington Association of Conservation Districts Newsletter
3. 2006 Washington Association of Conservation Districts Annual Meeting Program
4. Focus Sheet
5. Electronic Notification
6. Press Release
7. Notice of Public Meetings
8. Published Notices
9. Conservation Commission Special Meeting Notices
10. Written Public Comments
11. Public Hearings Transcript
12. WSR Rule Proposals
13. Final Rule Text

Appendix 1 – Designated Web Page

April 24, 2007

< BACK | Site index | District law | District directory | Privacy | Feedback | HOME >

@access washington™ **Washington State Conservation Commission**

We help protect, conserve and enhance natural resources

- Home
- Overview
- Programs
- Districts
- Resources
- Library
- File Cabinet
- Help

Search the Library:

Select a district:

Rules and Rulemaking | Assessment Rule

Special Assessment Rulemaking

The Washington State Conservation Commission submitted a CR-101 on October 18, 2006 as notice of possible rulemaking to establish procedures for conservation district special assessments for conservation districts as authorized in (Title 89.08.400 Revised Code of Washington).

On February 21, 2007, the State Conservation Commission submitted a proposed rule which was subsequently published on March 1, 2007 in issue 05-07 of the Washington State Register.

The Conservation Commission accepted public comments on the proposed rule from March 1, 2007 through the close of business on April 5, 2007.

More information about **special assessment rulemaking** is available at http://www.scc.wa.gov/rules/assessment.

Conservation Commission Rules

WAC 135-04: Washington Administrative Code Chapter 135-04 covers meeting dates for the Conservation Commission.

WAC 135-10: Washington Administrative Code Chapter 135-10 addresses the use of grant funds by conservation districts.

PROPOSED RULE: Washington Administrative Code Chapter 135-100 establishes procedures for conservation district special assessments.

What is rulemaking?

A rule (or regulation) is a written policy or procedure by a state agency that is generally applicable to a group of people, industries, activities, or circumstances. Rules are used by agencies to "fill in the gaps" of legislation. They implement, interpret, apply or enforce a state or federal law or court decision. A rule is adopted by an agency; a statute is a law that is passed by the state Legislature. In both cases, state law provides for citizen participation before a rule or law is approved.

After laws, or statutes, are passed by the state Legislature and signed by the Governor, they are compiled in the Revised Code of Washington, or RCWs. Rules to carry out those laws -- which are sometimes called regulations and sometimes called WACs, for the Washington Administrative Code -- are adopted by agencies through a process mandated in law by Washington's Administrative Procedure Act (APA). The APA sets out exactly what steps an agency has to follow to adopt rules. Different processes are provided for different kinds of

rules. The same basic process is used to adopt a new rule, amend an existing rule, or repeal an existing rule.

< BACK | Overview | Programs | Districts | Resources | Library | File Cabinet | Help | HOME >

You are here: home / rules /

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Contact the Washington State Conservation Commission
Mail: P.O. Box 47721, Olympia, WA 98504-7721
Office: 300 Desmond Drive, Lacey, WA 98503
Phone: (360) 407-6200
TDD phone: (360) 407-6006

RCW 89.08.400 Special assessments for conservation

The Washington State Conservation Commission submitted a CR-101 on October 18, 2006, stating our intent to proceed with rulemaking to clarify existing law on special assessments contained in Chapter 89.08.400 RCW›

Links and Documents

- **Background**
  - Read more about rulemaking
  - Conservation districts with special assessments
  - Special assessment presentation at 2005 Washington Association of Conservation Districts annual meeting
- **Current**
  - Rulemaking timeline page
  - Special assessment rulemaking timeline in graphic format
  - Stakeholder team (registered users only)
  - Stakeholder comments (registered users only)

RCW 89.08.400 Conservation district special assessments law

RCW 89.08.400 Special assessments for natural resource conservation consists of only ten paragraphs. The links below display each paragraph individually. Please note that the paragraph titles are interpretations added by the Conservation Commission; although they are listed in this order in statute, they are not titled as we have shown below.

¶1: RCW 89.08.400(1) Assessments authorized›

¶2: RCW 89.08.400(2) (part 1 of 4 subsections) County legislative authority and special assessment duration›

¶3: RCW 89.08.400(2) (part 2 of 4 subsections) Supervisors to hold public hearings›

¶4: RCW 89.08.400(2) (part 3 of 4 subsections) Proposed system of assessments›

¶5: RCW 89.08.400(2) (part 4 of 4 subsections) Publication and notice of public hearings›

¶6: RCW 89.08.400(3) (part 1 of 3 subsections) System of assessments, land classification, rates›

¶7: RCW 89.08.400(3) (part 2 of 3 subsections) Public lands subject to assessment›

¶8: RCW 89.08.400(3) (part 3 of 3 subsections) Assessment of forest lands›

¶9: RCW 89.08.400(4) Assessment roll and collection›

¶10: RCW 89.08.400(5) Petition by landowners›

Contact the Conservation Commission

Your Name :	
Your Email :	
Subject :	
Message :	

Submit

Appendix 2 – WACD November 2006 Newsletter

Newsletter Front Page

Page 3&4

WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

October 2006 Newsletter/Activities Update

NOVEMBER 2, 2006 VOLUME 1, NUMBER 10

Events and Activities:

- November 7, Spokane CD Annual Meeting, Valleyford
- November 8&9, Advanced Facilitation Training, Leavenworth
- **November 27, WACD O&D meeting, Spokane Valley**
- **November 28-30, WACD Annual meeting, Spokane Valley**
- November 30, Commission meeting, Spokane Valley

Plan today to attend the 2006 WACD Annual Meeting in Spokane Valley, WA, and see the detailed agenda and opportunities that your association has developed for you!

**If you have ideas on what you would like to see in this newsletter, please let either Lori McLaughlin or John Larson know.*

Carletta Mahoney – Employee of the Year, Clark CD
Mike Kuttel, Jr. – Employee of the Year, Thurston CD

Message from the Secretary/Treasurer

As you see in this newsletter, at the area meetings, and during day-to-day activities at your district, your association (WACD) is working hard to support your district. As you know, this isn't possible without the financial support of ALL districts. One of many ways that districts support WACD is through dues. This funding provides WACD with the resources necessary to successfully support ALL districts. Without full support of ALL districts, it limits WACD's effectiveness. For those districts that have already paid your WACD dues – THANK YOU VERY MUCH. For those districts that have not already paid your WACD due or have not paid your WACD dues in full – PLEASE make every effort to get them paid prior to the Annual Meeting. This will allow WACD to continue to work effectively for ALL districts.

Congratulations to the Kittitas County and Okanogan Conservation Districts

The Kittitas County and Okanogan Conservation Districts were successful in obtaining county commission approval of their special assessments. This brings the number of district with special assessments to 13 statewide. Each district did an excellent job of involving stakeholders and building support of their ability to help local landowners with natural resource issues.

Commission Rulemaking for CD Special Assessments

Rulemaking! Yes, rulemaking. The Commission has initiated rulemaking for conservation district special assessments (RCW 89.08.400) and they are looking for help from clients and stakeholders.

- Are you interested in seeing what they are up to?
- Would you like to help guide them toward a quality product?
- Are you comfortable providing written comments online?

Please do let Tom Salzer know ASAP if you're interested in participating, or if one of your board members or staff may be interested. There isn't envisioned a large time investment.

Visit http://wiki.scc.wa.gov/doku.php?id=rulemaking and select the link under "New rulemaking" for the overview. The rulemaking timeline for WSCC is extremely tight, as you'll see as you click around a little bit. They are in the early, informal stage of rulemaking at this moment and would like to involve conservation district and county stakeholders as soon as possible. A rough version of pre-draft rule language will be presented at the WACD annual meeting where the Commission will be seeking additional feedback.

If you agree to help out, Commission staff will set up a registration on the rulemaking pages where you can add comments. Of course you are always welcome to simply e-mail comments directly to them.

Tom is looking forward to hearing from you. Kickoff for this stage is November 6, and he'll be working intensively on this project from that moment forward. Stakeholder involvement is scheduled as follows (see http://wiki.scc.wa.gov/doku.php?id=rulemaking:rcw89.08.400:timeline for the complete schedule) :
The opportunity for the highest quality involvement is in November and early December.

Appendix 3 – WACD 2006 Annual Meeting Program

Page 1

WACD Annual Meeting
November 28 - 30, 2006
The Mirabeau Park Hotel & Convention Center
Spokane Valley, Washington

"Participate Today...
Invest in Tomorrow"

Page 2

Tuesday, November 28, 2006

10:30 a.m. – 11:45 a.m.

A. **"Special Assessments and Rule Making"**.....Ponderosa / Juniper
Presentation will include updates on current assessment issues. Participants will have an opportunity for direct input in the forthcoming rule-making process that will put the assessment process itself officially "on the books."
- facilitated by Ray Ledgerwood and Tom Salzer, WA State Conservation Commission

Appendix 4 – Focus Sheet

Focus on **Special Assessments**

From the Washington State Conservation Commission

This is who we are…

Since 1939, the Washington State Conservation Commission (WSCC) has been helping conservation districts assist private landowners with their conservation choices. By providing grant dollars and technical assistance, WSCC and local conservation districts help private landowners implement best management practices to protect, conserve, and enhance the state's natural resources as well as provide economic benefit.

This is what we are doing in rulemaking...

In order to assist conservation districts and county legislative authorities in their efforts to develop and impose a system of assessments for the conservation of renewable natural resources, the Washington State Conservation Commission is writing a rule to interpret and clarify Chapter 89.08.400 Revised Code of Washington.

A work session was held at the 2006 Annual Meeting of the Washington Association of Conservation Districts to hear comments from conservation district supervisors and staff. Informal work sessions for conservation districts and county officials were held in January in Spokane, Ellensburg, and Lacey. The informal work sessions were published in the Courthouse Journal (a regular publication of the Washington Association of County Officials and the Washington State Association of Counties) and notification to district managers and county commissioners was sent electronically as well as listed on our website.

The comment period will end April 5, 2007. The Conservation Commission will meet on April 30th telephonically for a Special Meeting to adopt the CR103 Rule. The rule will be filed with the Washington State Code Reviser's Office on May 1, 2007 and will go into effect on June 1, 2007.

How it may affect you...

The special assessment rule is an interpretive rule, so there is no penalty or fine if a conservation district or county legislative authority chooses to not follow the rule.

The Conservation Commission believes the interpretations and procedural steps described in the rule will help conservation districts and county legislative authorities create, modify and renew special assessments that are soundly constructed and achieve meaningful conservation benefits.

If you are a property owner and your county legislative authority imposes a conservation district special assessment, an assessment fee will be included on your property tax statement. Assessments are limited to five dollars per parcel plus ten cents per acre, except in King County where the maximum per-parcel assessment fee is ten dollars. Forest land may be assessed at lower rates.

Public Hearing Dates

March 27, 2007	Spokane Co. Conservation District, Spokane, WA
March 28, 2007	Kittitas Valley Events Center, Ellensburg, WA
March 29, 2007	Lacey Community Center, Lacey, WA

Contact

Mary Anderson, Rules Coordinator
PO Box 47721, Olympia, Washington 98504-7721
360.407.6202 Fax: 360.407.6215
mara461@ecy.wa.gov

March 2007 WSR 07-05-085 WAC 135-100

Appendix 5 – Electronic Notification

From: Anderson, Mary (WSCC)
Sent: Saturday, January 20, 2007 9:38 AM
To: Anderson, Mary (WSCC)
Subject: Washington State Conservation Commission Seeks Input on Rulemaking Proposal for RCW 89.08.400 (Assessments) - Informal Work Shops Held January 23-25
Importance: High

The Washington State Conservation Commission (WSCC) invites Washington Association of County Official members and conservation districts to participate in a work shop for rulemaking on special assessments for conservation districts.

RCW 89.08.400 authorizes counties to impose assessments for financing activities and programs of conservation districts. WSCC will be conducting informal work sessions in January and public hearings in March to help identify your concerns and suggestions. WSCC welcomes your feedback! Feel free to email us at rulemaking@scc.wa.gov.

The meetings are scheduled as follows:

Informal Work Sessions	Time	Location	To RSVP, go to:
Jan. 23, 2007	2-4:00 pm	Spokane County CD 210 N. Havana Spokane, WA 99202	rulemaking@scc.wa.gov
Jan. 24, 2007	10-12 noon	Kittitas County CD 607 E. Mountain View Ave. Ellensburg, WA 98926	rulemaking@scc.wa.gov
Jan. 25, 2007	10-12 noon	Conservation Commission 300 Desmond Drive Lacey, WA 98503	rulemaking@scc.wa.gov

Preliminary Schedule for Public Hearings		Time & Location
Eastern WA:	March 27, 2007	TBA: Check www.scc.wa.gov/rules in March.
Central WA:	March 28, 2007	TBA: Check www.scc.wa.gov/rules in March.
Western WA:	March 29, 2007	TBA: Check www.scc.wa.gov/rules in March.

Contact: Mary Anderson
Executive Assistant
360.407.6202
rulemaking@scc.wa.gov

From: Anderson, Mary (WSCC)
Sent: Tuesday, March 06, 2007 4:50 PM
To: Anderson, Mary (WSCC)
Subject: WSCC Public Hearings - New Proposed Rule - Conservation District Special Assessments for Natural Resource Conservation - WAC 135-100
Attachments: WSCC_Proposed_WAC_135-100_Public_Hearing_Notice_March2007.pdf

The Washington State Conservation Commission (WSCC) invites you to participate in the public comment period on rulemaking about special assessments for conservation districts. RCW 89.08.400 authorizes counties to impose assessments for financing activities and programs of conservation districts.

WSCC will be conducting public hearings March 27th through March 29th. The public comment period closes at the end of business on April 5, 2007.

WSCC welcomes your comments. Please see the attached file for details. You can also go to our website at: rulemaking@scc.wa.gov.

From: Anderson, Mary (WSCC)

Sent: Wednesday, February 14, 2007 8:53 AM

To: Anderson, Mary (WSCC)

Subject: Conservation Commission Special Meeting Notice - February 20, 2007

Good Morning,
A Special Conservation Commission meeting will be held telephonically on Tuesday, February 20, 2007 at 9:30 a.m. The purpose of the special meeting is to approve the filing of the proposed CR102 draft rule on Special Assessments to the Office of the Code Reviser.

Meeting Notice: http://filecab.scc.wa.gov/Commission/Meetings/2007/Special_Meetings_2007/WSCC_Special_Feb-2007_Meeting_Notice.pdf

Agenda: http://filecab.scc.wa.gov/Commission/Meetings/2007/Special_Meetings_2007/WSCC_Special_February-07_Agenda.pdf

---

From: owner-managers-all@list.scc.wa.gov on behalf of Anderson, Mary (WSCC) [MARA461@ecy.wa.gov]

Sent: Monday, April 16, 2007 10:24 AM

To: managers-all@list.scc.wa.gov

Subject: [managers-all] WSCC Special Commission Meeting to Adopt Chapter 135-100 WAC Special Assessments for Natural Resource Conservation (Rulemaking - WSR 07-05-085) - April 30 (Please share as appropriate)

The Special Meeting notice is available online at:
http://filecab.scc.wa.gov/Commission/Meetings/2007/Special_Meetings_2007/WSCC_Special_April-07_Meeting_Notice.pdf

You will be notified when the meeting documents become available online.

Appendix 6 – Press Release

STATE OF WASHINGTON
CONSERVATION COMMISSION
PO Box 47721 • Olympia, Washington 98504-7721 • (360) 407-6200 • FAX (360) 407-6215

PRESS RELEASE

Title: Conservation Commission Seeks Input on Rulemaking Proposal

Date: January 8, 2007

Contact: Mary Anderson
Executive Assistant
360.407.6202

The Washington State Conservation Commission (WSCC) invites all WACO members and conservation districts to participate in rulemaking about special assessments for conservation districts.

RCW 89.08.400 authorizes counties to impose assessments for financing activities and programs of conservation districts. WSCC will be conducting informal work sessions in January and public hearings in March to help identify your concerns and suggestions. WSCC also welcomes feedback sent to rulemaking@scc.wa.gov. The meetings are scheduled as follows:

Work Sessions	Time	Location	To RSVP, go to:
Jan. 23, 2007	2-4:00 pm	Spokane County CD 210 N. Havana Spokane, WA 99202	rulemaking@scc.wa.gov
Jan. 24, 2007	10-12 noon	Kittitas County CD 607 E. Mountain View Ave. Ellensburg, WA 98926	rulemaking@scc.wa.gov
Jan. 25, 2007	10-12 noon	Conservation Commission 300 Desmond Drive Lacey, WA 98503	rulemaking@scc.wa.gov

Public Hearings		Time & Location
Eastern WA:	March 27, 2007	TBA: Check www.scc.wa.gov/rules in March.
Central WA:	March 28, 2007	TBA: Check www.scc.wa.gov/rules in March.
Western WA:	March 29, 2007	TBA: Check www.scc.wa.gov/rules in March.

# # #

Appendix 7 – Public Hearing Notice

PUBLIC HEARING NOTICE

Washington State Conservation Commission

NOTICE IS HEREBY GIVEN that the Washington State Conservation Commission will hold a Public Hearing for public comments regarding the Draft Conservation District Special Assessments Rule, WAC 135.100.

The public hearings will be held in three locations:

Date:	March 27, 2007	
Time:	Informal Q&A	2:00 – 3:00 p.m.
	Public Hearing	3:00 – 4:00 p.m.
Location:	Spokane Spokane County CD 210 North Havana Spokane, WA	
Date:	March 28, 2007	
Time:	Informal Q&A	10:00 a.m. – 11:00 a.m.
	Public Hearing	11:00 a.m. – 12:00 p.m.
Location:	Ellensburg Kittitas Valley Events Center 512 N. Poplar Street Ellensburg, WA	
Date:	March 29, 2007	
Time:	Informal Q&A	2:00 – 3:00 p.m.
	Public Hearing	3:00 – 4:00 p.m.
Location:	Lacey Lacey Community Center 6729 Pacific Avenue SE Lacey, WA	

Copies of the draft rule may be obtained by contacting Mary Anderson of Washington State Conservation Commission at 360.407.6202 or email mara461@ecy.wa.gov. The draft rule is also available online at: www.scc.wa.gov/rules.

If you need special accommodations to attend the hearing, please call the Conservation Commission at 360.407.6200 by March 21, 2007.

Appendix 8 – Published Notices

Front Page

Page 22

the Courthouse Journal

WACOUNTIES.ORG

January 12, 2007
Issue No. 1

Washington Association of County Officials
Washington State Association of Counties

Attachments (continued)

STATE OF WASHINGTON

CONSERVATION COMMISSION

PO Box 47721 • Olympia, Washington 98504-7721 • (360) 407-6200 • FAX (360) 407-6215

PRESS RELEASE

Title: Conservation Commission Seeks Input on Rulemaking Proposal

Date: January 8, 2007

Contact: Mary Anderson
Executive Assistant
360.407.6202

The Washington State Conservation Commission (WSCC) invites all WACO members and conservation districts to participate in rulemaking about special assessments for conservation districts. RCW 89.08.400 authorizes counties to impose assessments for financing activities and programs of conservation districts. WSCC will be conducting informal work sessions in January and public hearings in March to help identify your concerns and suggestions. WSCC also welcomes feedback sent to rulemaking@scc.wa.gov. The meetings are scheduled as follows:

Work Sessions	Time	Location	To RSVP, go to:
Jan. 23, 2007	2-4:00 pm	Spokane County CD 210 N. Havana Spokane, WA 99202	rulemaking@scc.wa.gov
Jan. 24, 2007	10-12 noon	Kittitas County CD 607 E. Mountain View Ave. Ellensburg, WA 98926	rulemaking@scc.wa.gov
Jan. 25, 2007	10-12 noon	Conservation Commission 300 Desmond Drive Lacey, WA 98503	rulemaking@scc.wa.gov

Public Hearings		Time & Location
Eastern WA:	March 27, 2007	TBA: Check www.scc.wa.gov/rules in March.
Central WA:	March 28, 2007	TBA: Check www.scc.wa.gov/rules in March.
Western WA:	March 29, 2007	TBA: Check www.scc.wa.gov/rules in March.

Front Page

Page 24

the Courthouse Journal

WACOUNTIES.ORG

March 9, 2007
Issue No. 9

Washington Association of County Officials
Washington State Association of Counties

Washington State Conservation Commission

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN that the Washington State Conservation Commission will hold a Public Hearing for public comments regarding the Draft Conservation District Special Assessments Rule, WAC 135-100. WSR 07-05-087.

The public comment period for the Conservation District Special Assessments Rule closes at the end of business on April 5, 2007.

The public hearings will be held in three locations:

Date:	March 27, 2007	
Time:	Informal Q&A	2:00 – 3:00 p.m.
	Public Hearing	3:00 – 4:00 p.m.
Location:	Spokane Spokane County CD Conference Room 210 North Havana Spokane, WA	
Date:	March 28, 2007	
Time:	Informal Q&A	10:00 a.m. – 11:00 a.m.
	Public Hearing	11:00 a.m. – 12:00 p.m.
Location:	Ellensburg Kittitas Valley Events Center Youth Craft/East Room 512 N. Poplar Street Ellensburg, WA	
Date:	March 29, 2007	
Time:	Informal Q&A	2:00 – 3:00 p.m.
	Public Hearing	3:00 – 4:00 p.m.
Location:	Lacey Lacey Community Center Room 1 6729 Pacific Avenue SE Lacey, WA	

Copies of the draft rule may be obtained by contacting Mary Anderson of the Washington State Conservation Commission at 360.407.6202 or email mara461@ecy.wa.gov. The draft rule is available online at: http://www.leg.wa.gov/documents/wsr/2007/05/07-05-087.htm.

If you are unable to attend and would like to provide public comments online: http://www.scc.wa.gov/rules/rulecomment.html. There is more information posted online at: www.scc.wa.gov/rules.

If you need special accommodations to attend the hearing, please call the Conservation Commission at 360.407.6200 by March 21, 2007.

Appendix 9 – Commission Special Meeting Notices

STATE OF WASHINGTON

CONSERVATION COMMISSION

PO Box 47721 • Olympia, Washington 98504-7721 • (360) 407-6200 • FAX (360) 407-6215

February 14, 2007

TO: Conservation Commission Members and Friends

FROM: Mark Clark, Executive Director

RE: **FEBRUARY 20, 2007 SPECIAL CONSERVATION COMMISSION MEETING NOTICE**

A Special Conservation Commission meeting will be held telephonically on Tuesday, February 20, 2007. The purpose of the special meeting is to approve the filing of the proposed CR102 draft rule on Special Assessments to the Office of the Code Reviser.

Tuesday, February 20, 2006

9:30 – 10:00 a.m. A **Special Commission Meeting** will be held telephonically to approve the filing of the proposed CR102 draft rule on Special Assessments to the Office of the Code Reviser.

NOTE: Telephone ports have been reserved for Commission members and staff only. If you desire a port to listen to this special meeting, please call the Commission at 360-407-6200, no later than February 16, 2006.

STATE OF WASHINGTON

CONSERVATION COMMISSION

PO Box 47721 • Olympia, Washington 98504-7721 • (360) 407-6200 • FAX (360) 407-6215

April 16, 2007

TO: Conservation Commission Members and Friends

FROM: Mark Clark, Executive Director

RE: **APRIL 30, 2007 SPECIAL CONSERVATION COMMISSION MEETING NOTICE**

A Special Conservation Commission meeting will be held telephonically at 9:00 a.m. on Monday, April 30, 2007 to approve and adopt Chapter 135-100 WAC Special Assessments for Natural Resource Conservation (WSR 07-05-085).

Monday, April 30, 2007

9:00 – 10:00 am A **Special Commission Meeting** will be held telephonically to approve and adopt Chapter 135-100 WAC Special Assessments for Natural Resource Conservation (WSR 07-05-085).

NOTE: Telephone ports have been reserved for Commission members and staff. If you desire a port to listen to this special meeting, please call the Commission at 360-407-6200, no later than April 27, 2007.

COMMENTS TO PROPOSED RULES SUBMITTED BY KING CONSERVATION DISTRICT

(March 23, 2007)

WSR 07-05-087

PROPOSED RULES

CONSERVATION COMMISSION

[Filed February 21, 2007, 10:16 a.m.]

Chapter 135-100 WAC

SPECIAL ASSESSMENTS FOR NATURAL RESOURCE CONSERVATION

NEW SECTION

WAC 135-100-010 Purpose of this rule. It is the intent of the conservation commission to interpret and clarify RCW 89.08.400 in this rule in order to assist conservation districts and county legislative authorities in their efforts to develop and impose a system of assessments for the conservation of renewable natural resources.

NEW SECTION

WAC 135-100-020 Definitions. "Authorized conservation program" and **"conservation program"** mean the renewable resources program defined in RCW 89.08.220(7) that includes a comprehensive long-range plan and a supplemental annual work plan.

"Renewable natural resources" or **"natural resources"** includes land, air, water, vegetation, fish, wildlife, wild rivers, wilderness, natural beauty, scenery, and open space.

"Special benefits to lands" means tangible improvements to renewable natural resources. **"Special benefits to lands"** can also mean intangible improvements to renewable natural resources, including, but not limited to, education and outreach activities and programs that result, directly or indirectly, in improvements to renewable natural resources. **"Special benefits to lands"** does not necessarily mean that appraised property values are improved or altered as a result of the activities and programs funded by the special assessment.

"System of assessments" means:

(1) A classification or categorization of lands according to the benefits conferred, or to be conferred, by the conservation district's authorized conservation program;

(2) An annual rate of assessment for each land classification;

(3) A total amount of assessments that will be collected from each land classification; and

(4) The duration of the assessment.

The system of assessments does not include a budget or intended allocation of funds to be derived from the special assessment.

Comment: KCD believes that the definition of "special benefits to lands" should be revised to broaden the definition to include other intangible benefits that accrue to lands that are capable of being measured by ecological or other valuation methodologies. KCD recently hired a consultant to perform a special benefit analysis. The consultant identified a number of indirect benefits that may accrue to lands as a result of conservation activities and programs, which included benefits measured by "avoided cost" and "replacement cost" methodologies. Attached is a copy of the special benefit analysis report that was prepared for KCD by Earth Economics. KCD proposes that the definition of "special benefit to lands" be modified as follows:

"Special benefits to lands" means tangible improvements to renewable natural resources. **"Special benefits to lands"** can also mean intangible improvements <u>or benefits</u> to renewable natural resources <u>from conservation programs and activities</u>, including, but not limited to, education and outreach activities and programs that result, directly or indirectly, in improvements to renewable natural resources<u>, or other intangible benefits that accrue to lands</u>. **"Special benefits to lands"** does not necessarily mean that appraised property values are improved or altered as a result of the activities and programs funded by the special assessment."

<u>NEW SECTION</u>
WAC 135-100-030 Purpose and use of assessments. The purpose of conservation district special assessments is to help conservation districts implement their authorized conservation program.

<u>Funds generated by special assessments for natural resource conservation may only be used to benefit lands assessed</u>.

Comment: The last sentence of WAC 135-100-030 (underlined) may have unintended consequences. Under the proposed language, arguably a conservation district could not use any conservation assessment funds for conservation programs on lands that are not assessed (e.g., forested lands, federal lands, tribal lands), even if the conservation programs were a benefit to renewable natural resources and/or assessed lands outside of those areas where conservation work was performed. KCD recommends that the last sentence of WAC 135-100-030 be deleted.

<u>NEW SECTION</u>
WAC 135-100-040 County has authority to impose assessment. The county legislative authority <u>has sole authority to impose a special assessment</u> for natural

resource conservation on conservation district lands within the boundaries of the county.

When more than one conservation district occurs in a county, special assessments for natural resource conservation need not be imposed for all of the conservation districts in the county.

When one conservation district exists in more than one county, special assessments for natural resource conservation need not be imposed by all counties.

Comment: KCD believes that the proposed rule should be modified to clarify that the fact a county has the sole authority to impose a special assessment does not mean that a county has the authority not to process a proposed system of assessment which was properly filed with the county. KCD is concerned that the use of the phrase "sole authority" could be viewed as granting the county the discretion to deny a conservation district's proposed system of assessments without proceeding with a public hearing to determine whether the public interest and special benefit requirements of RCW 89.08.400 are satisfied. KCD wants to avoid a situation where the processing of a proposed system of assessments is conditioned by the county, for example, upon a conservation district submitting a particular program of work and budget that may be preferred by a county over a program of work and budget developed independently by a conservation district.

KCD believes the first paragraph of WAC 135-100-040 should be modified as follows:

"The county legislative authority has sole authority to impose a special assessment for natural resource conservation on conservation district lands within the boundaries of the county. Once a proposed system of assessments is filed with the county legislative authority, the county legislative authority is required to hold a public hearing on the proposed system of assessments in order to determine whether the public interest and special benefit requirements of RCW 89.08.400 are satisfied. After the hearing, the county legislative authority may accept, or modify and accept, the proposed system of assessments if it finds that both the public interest will be served by the imposition of the special assessments and that the special assessments to be imposed on any land will not exceed the special benefit the land receives or will receive from the activities of the conservation district."

NEW SECTION

WAC 135-100-050 System of assessments. The conservation district develops a system of assessments that classifies all lands in the conservation district into classifications or categories according to benefits conferred, or to be conferred, through the authorized conservation program of the conservation district.

The conservation district must also classify lands which will not benefit from the authorized conservation program.

The system of assessments cannot exempt lands based on taxpayer characteristics such as age or income level.

NEW SECTION

WAC 135-100-060 Term of assessment. The minimum term of a special assessment for natural resource conservation should be at least two years. The maximum term is ten years.

Comment: RCW 89.08.400 refers only to "a period or periods each not to exceed ten years in duration." While conservation districts and counties may prefer multiple year assessments, KCD questions whether it is proper for proposed WAC 135-100-060 to establish a minimum term of two years. Further, KCD believes that the use of the term "should" could still be interpreted as being mandatory as opposed to discretionary.

NEW SECTION

WAC 135-100-070 Public lands may be assessed. Two kinds of public lands are subject to the special assessment: Lands owned by local governments, and lands owned by the state.

Public lands owned by local governmental entities are subject to the special assessment if such lands will receive special benefits from the district's authorized conservation program.

Public lands owned by state governmental entities are subject to the special assessment if such lands will receive special benefits from the district's authorized conservation program. In addition, the conservation district must follow the requirements described in chapter 79.44 RCW when assessing such lands.

If public lands will not benefit from the conservation district's conservation program, they must be identified in the system of assessments as a class of land not receiving special benefits.

Comment: The language in the third paragraph of WAC 135-100-070 (underlined) would put the responsibility for complying with chapter 79.44 RCW on conservation districts. RCW 79.44.003 (8) defines an "assessing district" as "Any municipal corporation or public agency having power to levy local improvement or other assessments, rates, or charges which by statute are expressly made applicable to lands of the state." This raises the question of whether conservation districts have the power to levy conservation assessments. Pursuant to RCW 89.08.400(2), and the new proposed WAC 135-100-040, the power to levy conservation assessments is vested in the county legislative authorities. Therefore, based on RCW 79.44.003 (8) it would appear that county legislative authorities should be responsible for complying with the notice requirements imposed by chapter 79.44 RCW. It may be appropriate to revise the draft rule to include some joint responsibility for complying with chapter 79.44 RCW. For example, if a conservation district undertakes the responsibility to comply with the requirements of chapter 79.44, the county may adopt the conservation district's actions as it own for purposes of compliance with chapter 79.44 RCW.

NEW SECTION

WAC 135-100-080 Assessment rates. Assessment rates must be based on the special benefits to be conferred to natural resources by the district's authorized conservation program.

The conservation district must determine an annual per-acre rate of assessment for each class of land. The conservation district must calculate the

total amount of special assessments proposed to be collected for each class of lands.

Lands not benefited by the conservation district's conservation program must be classified separately and must not be subject to the special assessment.

For each classification of land to receive special benefits, the annual assessment rate must be either:

(1) A uniform per-acre amount; or

(2) A uniform per-acre amount plus an annual flat rate per parcel.

The uniform per-acre amount must be greater than zero cents per acre and cannot exceed ten cents per acre.

The maximum annual per-parcel rate is five dollars, except for counties with a population of over one million five hundred thousand persons where the maximum annual per-parcel rate cannot exceed ten dollars.

Comment: Does the reference to "zero cents per acre" (underlined) authorize a fractional cent? KCD is assuming that as long as the per acre amount is greater than $0.00 (e.g., $0.005), an amount less than a full cent is authorized.

NEW SECTION

WAC 135-100-090 Forest lands may be assessed at special rates. Some forest lands, referred to as qualified forest lands, may be subject to a special rate of assessment. Qualified forest lands are parcels used only for the planting, growing, or harvesting of trees. Such lands qualify for special rates of assessment.

Forest lands used for purposes other than, or in addition to, the planting, growing, or harvesting of trees do not qualify for special rates of assessment.

For qualified forest lands, no per-parcel assessment may be charged. In lieu of a per-parcel charge, each owner of more than one parcel of qualified forest lands may be charged up to three dollars a year if their forest lands will benefit from the conservation district's conservation program.

The per-acre rate of special assessments for qualified forest lands may not exceed one-tenth the weighted average per-acre assessment of all other assessed lands in the district. The weighted average is calculated by dividing the total assessment to be collected from all lands except qualified forest lands by the total acreage of all lands except qualified forest lands.

Only the first ten thousand acres of qualified forest lands owned by the same person or entity may be assessed. Additional acres beyond the first ten thousand acres must be identified in the system of assessments as a class of land exempt from assessment.

NEW SECTION

WAC 135-100-100 Special notice requirements for public hearings. When

proposing a system of assessments, the conservation district and county legislative authority must comply with notice requirements for public hearings described in RCW 89.08.400(2).

NEW SECTION

WAC 135-100-110 Conservation district public hearing before August 1. The supervisors of a conservation district must hold at least one public hearing on the system of assessments being proposed by the district. The hearing or hearings must occur before the first day of August in the calendar year prior to the year the proposed assessments will be collected.

Public hearings may be held as part of regular or special meetings of the conservation district board of supervisors. Such hearings must have a specified start and end time for the board to receive public comment.

The conservation district should work to educate affected landowners about the costs and benefits of the special assessment well in advance of the conservation district formal public hearing(s).

Comment: KCD believes that the language in the third paragraph of WAC 135-100-110 (underlined) should be revised in order to avoid confusion about what "work" needs to occur to educate affected landowners.

KCD believes the third paragraph of WAC 135-100-110 should be modified as follows:

"The conservation district should make reasonable efforts to educate affected landowners about the costs and benefits of the special assessment well in advance of the conservation district formal public hearing(s)."

KCD assumes that conservation districts' efforts to educate the affected owners through general outreach efforts, Board and community meetings, and/or website or internet postings would be considered "reasonable efforts", as opposed to a requirement for direct mailing to all property owners which would be very expensive.

NEW SECTION

WAC 135-100-120 Conservation district proposal and budget filed with county. On or before the first day of August in the calendar year before the assessment will be collected, the conservation district must file the proposed system of assessments with the county legislative authority. The conservation district must also provide to the county legislative authority a proposed budget for the first year the assessment will be collected.

Filing means the county legislative authority, or its authorized representative such as the county auditor or clerk, has physically received the proposed system of assessments and the proposed budget by the close of business on or before the first day of August. Along with the proposed system of assessments and proposed budget, the county should receive a copy of the resolution passed by the conservation district board of supervisors that asks the county legislative authority to impose a special assessment for natural resource conservation consistent with RCW 89.08.400 and this rule.

NEW SECTION

WAC 135-100-130 County public hearing after receiving proposal. After the county legislative authority has received the proposed system of assessments and proposed budget from the conservation district, the county must hold at least one public hearing on the proposal.

NEW SECTION

WAC 135-100-140 County may modify proposed system after public hearing. After the county's public hearing, and before the county legislative authority takes final action on the conservation district request to impose a special assessment, the county legislative authority may modify or amend the proposed system of assessments. The county legislative authority may not modify a conservation district's proposed budget or alter the intended allocation of special assessment funds.

NEW SECTION

WAC 135-100-150 County imposes system of assessments. To impose the proposed or modified system of assessments, the county legislative authority must find:

(1) That the proposed system will serve the public interest; and

(2) That the special benefits to lands provided by the assessment will meet or exceed the amount to be assessed.

This does not necessarily mean appraised property values are improved or altered through the authorized conservation program of the district.

NEW SECTION

WAC 135-100-160 Conservation district may withdraw or modify assessment. The conservation district, through official action of the conservation district board of supervisors, may withdraw or modify the proposed system of assessments at any time before a county legislative authority takes final action to impose the system of assessments.

Comment: KCD notes that AGO 2006 No. 8 discusses the issue of a conservation district modifying a proposed system of assessments after the August 1 deadline. The AGO suggests that material alterations may be problematic in that property owners would not have an opportunity to provide comments on the modified proposed system of assessments. The AGO also notes that it is not necessary for conservation districts to modify a proposed system of assessment since counties have the authority to do so under RCW 89.08.400.

KCD believes that WAC 135-100-160 could be modified as follows in order to address this issue:

"The conservation district, through official action of the conservation district board of supervisors, may withdraw or modify the proposed system of assessments at any time

before a county legislative authority takes final action to impose the system of assessments. To the extent a conservation district makes material modifications to its proposed system of assessments, such changes must occur prior to August 1 so that the public hearing requirements of RCW 89.08.400 may be satisfied as to the modified proposed system of assessments."

NEW SECTION
WAC 135-100-170 Conservation district may alter assessment on parcels. The conservation district may alter assessments on individual parcels at any time if land uses change that would affect the classification of such parcels. The conservation district must notify the county assessor of any changes that affect the classification of parcels to be assessed.

If the county assessor seeks to change the classification of individual parcels, the conservation district must approve such changes before collecting the assessment for such parcels.

NEW SECTION
WAC 135-100-180 Conservation district prepares assessment roll. After the county legislative authority authorizes special assessments for natural resource conservation, the conservation district must prepare an assessment roll to implement the approved system of assessments. The conservation district should seek assistance from the county assessor in preparing the assessment roll.

NEW SECTION
WAC 135-100-190 County assessor applies assessment to tax rolls. The county assessor will apply the classifications and rates in the conservation district's system of assessments to lands to be assessed.

NEW SECTION
WAC 135-100-200 County treasurer collects assessments. Special assessments will be collected by the county treasurer and accounted for with property taxes. Collection of special assessments starts in the calendar year following the county legislative authority's action approving the special assessment.

NEW SECTION
WAC 135-100-210 County can recover actual costs. The county treasurer may recover the actual costs incurred by the county assessor and county treasurer in spreading and collecting the special assessments. Upon request, the county treasurer must explain the basis for cost recovery charges made against the assessment.

NEW SECTION
WAC 135-100-220 Conservation district to receive all remaining funds. All

funds collected, minus the actual cost of spreading and collecting the assessment, must be promptly transferred to the conservation district. For conservation districts that use the county treasurer as the district treasurer per RCW 89.08.215, assessment funds collected (minus actual costs) must be accounted for separately.

NEW SECTION

WAC 135-100-230 Conservation district to keep landowners informed. The conservation district should inform landowners with lands to be assessed how their assessment was calculated.

Comment: KCD believes that the language of WAC 135-100-230 should be revised in order to avoid confusion about what "keep landowners informed" means as this language implies a continuing obligation.

KCD believes that WAC 135-100-230 should be modified as follows:

"WAC 135-100-230 Conservation district to inform ~~keep~~ landowners. ~~informed.~~ The conservation district should make reasonable efforts to inform landowners with lands to be assessed how their assessment was calculated."

NEW SECTION

WAC 135-100-240 Landowners may petition the county to object. Landowners with lands to be subject to the special assessments may object to the assessment by petitioning the county legislative authority. The petition must be signed by at least twenty percent of the owners of land that would be subject to the special assessments.

The petition must be filed with the county legislative authority on or before the close of business on the fourteenth day of December in the year the county approves the special assessment.

If a petition meeting these requirements is filed, the county may not spread or collect the assessment.

NEW SECTION

WAC 135-100-250 Renewal of assessment. Renewal of a conservation district special assessment must meet the same requirements as for a newly proposed assessment.

Website Comment

RULECOMMENT

ID	Name	Email	Comments	Date	Representing
24	George Boggs	gboggs@whatcomcd.org	The operative effect of the following section would afford a small percentage of landowers (20%) the ability to veto an assessment. This would be after public hearings of a conservation district and County legislative authority. I know of no such parallel in the law. The usual outcome of a "petition" is an opportunity to be heard with good cause on the grievance. That is not what is provided. No basis for the petition is required. No process is described for handling the petition. As it stands, the assessment is suspended indefinately. This section is not well conceived or executed. "NEW SECTION WAC 135-100-240 Landowners may petition the county to object. Landowners with lands to be subject to the special assessments may object to the assessment by petitioning the county legislative authority. The petition must be signed by at least twenty percent of the owners of land that would be subject to the special assessments. The petition must be filed with the county legislative authority on or before the close of business on the fourteenth day of December in the year the county approves the special assessment. If a petition meeting these requirements is filed, the county may not spread or collect the assessment."	Mar 8th, 12:15 PM	Self

Appendix 11 - Transcript of Public Comments

March 27, 2007, Spokane

Rich Baden, Executive Director of the Spokane County Conservation District

Rich Baden at 210 North Havana, representing the Spokane County Conservation District. Just like to address one section, a new section, under 030 (Purpose and Use of Assessments) and my recommendation would be to strike the second sentence and to have the first sentence continue on after the word “conservation program”, comma, that includes a comprehensive long-range plan and a supplemental annual work plan. And that’s really all I have to comment on.

March 28, 2007, Ellensburg

Merrill Ott, Stevens County Commissioner

For the record, my name is Merrill Ott, Stevens County Commissioner, 215 South Oak, Suite 214, Colville, Washington 99114. I just want to thank the Conservation Commission for this proposal. I’ll make my remarks very short and sweet.

First of all, Stevens County Conservation District is a grants-based district as of this time. We do not have an assessment. The concerns that we have regarding initiating an assessment system have been clarified greatly in your new proposal. Therefore, the County is supportive of this rule. As per our discussions, there are areas of concerns. I’m sure these will come out for discussion later.

Our major concerns are that of due process in following a assessment process for the property holders to ensure they have proper access to appeal, proper access to any changes in the proposed system, perhaps that the conservation district makes, to ensure that all the way through any process that the rights of the property owners are protected throughout all of this.

I appreciate a lot of the clarification, having reviewed the law and reviewed the proposed section here. I am sure that there are some areas that we would like to see some clarification, notably, in WAC 135-100-100 Special Notice Requirements. It was noted during our discussion earlier that the Conservation Commission’s requirements may have more stringent requirements than our Open Public Meetings Act. Perhaps clarifying language or a short

sentence describing a further restriction than the Open Meetings Act would help our public understand that things can vary throughout.

Concerns I have is the way that once a proposal is made to the county, and if modifications are made to the proposal is that we have adequate public notification. That would perhaps affect various parties, that they have a good responsive time to react to these things and that we have a very clear cut process to enable the system to function without too many halts and jerks which can really upset people, at least in my experience in trying to accomplish the Growth Management Act that we have been battling for many years.

With that, I want to thank you, Tom, Mary, for coming and being here. I'm in route to Olympia so thank you for your discussion this morning, helped clarify a lot of issues.

Michael Tobin, District Manager of the North Yakima Conservation District

My name is Michael Tobin. I'm the North Yakima Conservation District manager. Address is 1606 Perry Street, Suite C, Yakima, WA 98902.

I'd like to speak today in full support of the assessment rule as discussed and noted. I did participate in some of the processes to work through the ruling prior to this hearing.

I would also, my concern here is that the assessment process is a tremendous tool for all districts, and I have seen that the assessment process in chapter 400 of the RCW has been misinterpreted – that would be to my personal opinion – by many legislative authorities and their legal counsel across the state. And I hope this tightens that up, because when a conservation district chooses to use this tool to move forward with natural resource protection enhancement, and wise use on a landscape base for an individual county for their constituents, nothing beats this tool. That would be the extent of my comments today.

Sara Hemphill, King Conservation District

My name is Sara Hemphill. I live at 8625 Fauntleroy Way SW in Seattle, and I work with the King Conservation District. I'm just going to highlight this morning some of the comments we've made in writing to you. I think most have been incorporated but there were a couple that maybe didn't or haven't been yet, I don't know what the story was.

At any rate, with respect to special benefits to lands, you've noted that the special benefits are not just tangible improvements. That there are other benefits that run with the work the conservation district is doing, and we think that's very important. It's one of the things we're seeing in King County with the watershed planning. The jurisdictions have tended to identify what I call "pipe and steel" projects, hard projects, and I believe they don't really know how to do programmatic projects. They don't function, they don't work with their constituents in the same way the conservation districts do. And I've talked to a couple of scientists in King County who think that it's not that they don't want to do them, it's just that they really don't know how, it's not on their screen. So it's one of the things we're going to be pushing, and working with this year.

Then under section 135-100-030, the last sentence that states "funds generated by special assessments for natural resource conservation may only be used to benefit lands assessed." Our legal counsel was concerned that this might have some unintended consequences and the concern was that a conservation district could not use any conservation district funds for conservation programs on lands that are not assessed. Thus, he suggested that just from the standpoint of clarity, if you drop that sentence it might make it easier.

We've had some discussion earlier this morning on the sole authority issue. We certainly lived that misunderstanding loud and clear for two years, and so my concern about making sure that those details are pointed out in the rule, you've picked up on that.

I would make one other comment. When you are talking about, when 89.08 says "once the proposed system of assessments is filed with a county legislative authority, the county legislative authority is required to hold a public meeting on the proposed system of assessments." There were at least two instances where King County misinterpreted that and held their hearing on their rewrite of the system of assessments. So that language is, maybe somebody glossed over it quickly; I would just say it's pretty important.

The other issue was the one on the timeline, there was a suggestion here that the term of the assessment (060), that the term should be at least two years. Our legal was concerned that that really is not what the law says. I think the concern is we don't want the baby thrown out with the bath water. It's been our experience that everyone involved in this process wants the term to be as long as they can possibly make it, so they don't have to go back through it again and over again. We weren't as concerned about the front end of the term as whoever drafted this but the concern was that it's a loophole and we didn't want to see that we lost everything we gained with this rule.

We applaud, very loudly, all that the Commission has done on this, because our concern was that the ground we gained in King County, we wanted to make sure we held with the rule, and our feeling is that we're there. Thank you.

March 29, 2007, Lacey

No public comments were made at the hearing.

Appendix 12 – WSR Rule Proposals

CR101

PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Washington Conservation Commission

Subject of possible rule making: Procedures for conservation district special assessments.

Statutes authorizing the agency to adopt rules on this subject: RCW 89.08.040 and RCW 89.08.070.

Reasons why rules on this subject may be needed and what they might accomplish: The Conservation Commission is proposing rules on this subject to make it easier for conservation districts and county legislative authorities to develop, propose, adopt, implement, revise and renew conservation district special assessments consistent with RCW 89.08.400.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: No other agencies have authority to regulate conservation district special assessments.

Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study
- ☒ Other (describe) The Conservation Commission will work with stakeholders to develop proposed rules. After the rule proposal publishes in the State Register, the Commission will hold a public hearing and comment period to receive feedback on the proposal.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:
(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Interested parties should contact:
Mary Anderson
Washington Conservation Commission
PO Box 47721Olympia, WA 98504-7721
(360) 407-6200

DATE
October 18, 2006

NAME (TYPE OR PRINT)
Mark Clark

SIGNATURE

TITLE
Executive Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 18 2006

TIME 941 AM PM
WSR 06-21-127

CR102

PROPOSED RULE MAKING	CR-102 (June 2004) (Implements RCW 34.05.320) Do **NOT** use for expedited rule making

Agency: Washington State Conservation Commission

☒ **Preproposal Statement of Inquiry was filed as WSR** 06-21-127**; or** ☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____**; or** ☐ **Proposal is exempt under RCW 34.05.310(4).**	☒ **Original Notice** ☐ **Supplemental Notice to WSR** _____ ☐ **Continuance of WSR** _____

Title of rule and other identifying information: (Describe Subject) WAC 135-100 Procedures for conservation district special assessments.

Hearing location(s): See Attached	**Submit written comments to:** Webpage: www.scc.wa.gov/rules Name: Mary Anderson, Rules Coordinator Address: PO Box 47721 Olympia, WA 98504-7721 e-mail mara461@ecy.wa.gov fax 360.407.6215 by (date) April 5, 2007
Date of intended adoption: April 30, 2007 (Note: This is **NOT** the **effective** date)	**Assistance for persons with disabilities:** Contact Mary Anderson by March 21, 2007 TTY (360) 407-6200 or (360) 407-6202

Purpose of the proposal and its anticipated effects, including any changes in existing rules: It is the intent of the conservation commission to interpret and clarify RCW 89.08.400 in this rule in order to assist conservation districts and county legislative authorities in their efforts to develop and impose a system of assessments for the conservation of renewable natural resources. The conservation commission believes the interpretations and clarifications provided in the proposed rule will increase confidence of all parties, resulting in more conservation districts and county legislative authorities choosing to implement this local funding mechanism. The proposed rule is intended to increase public involvement in conservation district program planning, special assessments, and the funding of conservation activities and programs most needed and desired by local communities.

Reasons supporting proposal: Conservation districts and county legislative authorities have interpreted existing statutory language widely, resulting in lack of confidence about the basis for conservation district special assessments and how they may be used. The conservation commission has observed a number of real or threatened legal actions because of the difficulty in interpreting RCW 89.08.400. This proposed rule is intended to make requirements and steps in developing, proposing, adopting, implementing, modifying and renewing conservation district special assessments less confusing.

Statutory authority for adoption: RCW 89.08.040 and 070	**Statute being implemented:** RCW 89.08.400

Is rule necessary because of a:		
Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No
If yes, CITATION:		

DATE
February 21, 2007

NAME (type or print)
Mark Clark

SIGNATURE

TITLE
Executive Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 21, 2007
TIME: 10:16 AM

WSR 07-05-087

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization)
Washington State Conservation Commission

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Tom Salzer	300 Desmond Drive SE, Lacey, WA	(360) 407-6214
Implementation....NA	NA	( )
Enforcement.....NA	NA	( )

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No. Explain why no statement was prepared.
There are no economic impacts for small business.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No: Please explain:
The proposed rule is exempt per RCW 34.05.328(5)(b).