

Bureau of Indian Affairs, Interior

§ 81.24

provisions in order to avoid contradictions within the document.

(3) When more than one amendment is being submitted to the voters at a given election, the proposals shall be identified with alphabetical designations rather than numerical. The first of the several proposals would be labeled "Proposed Amendment A," the next would be "Proposed Amendment B," etc. Those amendments that are adopted and approved would then be assigned consecutive numbers to follow those assigned any earlier amendments that may have been made to that governing document. A statement similar to the following shall appear on each of the proposed amendments and shall be completed following the election:

Having been duly adopted and approved, Proposed Amendment (A,B,C, etc.) is hereby designated as Amendment No. — to the (Constitution, Charter, etc.) of the (name of tribe) Tribe.

(c) The election board will supply all ballots. Each ballot shall be stamped in red ink on its face in the same place:

OFFICIAL BALLOT
(Facsimile Signature)
CHAIRMAN, ELECTION BOARD

(d) Should any voter spoil or mutilate a ballot in the course of voting at a poll, the voter shall destroy it in the presence of the election officials and the election officials shall then make note of the destroyed ballot and furnish the voter with another ballot.

(e) Any spoiled or mutilated absentee ballot may be exchanged for a new one by returning it to the election board with a request for another. The board shall honor the request promptly and note the dates of related actions. No extension of time will be granted for receipt of exchanged ballots that might not be cast on time.

§ 81.21 Counting of ballots.

All duly cast ballots are to be counted. Even though it will not be possible to determine the intent of the voter regarding spoiled and mutilated ballots, they are to be counted for purposes of determining whether the required percentage of voters have cast their ballots in the election. Invalid ballots shall not be counted for purposes of de-

termining the required percentage of votes cast.

§ 81.22 Contesting of election results.

Any qualified voter, within three days following the posting of the results of an election, may challenge the election results by filing with the Secretary through the officer in charge the grounds for the challenge, *together with substantiating evidence*. If in the opinion of the Secretary, the objections are valid and warrant a recount or new election, the Secretary shall order a recount or a new election. The results of the recount or new election shall be final.

§ 81.23 Posting and certifying election results.

(a) The results of the election shall be posted in the local Bureau of Indian Affairs office, tribal headquarters, and at other appropriate public places determined by the election board.

(b) The election board shall certify the results of the election on the following form and transmit them to the local unit of the Bureau of Indian Affairs:

Certificate of Results of Election

Pursuant to a Secretarial election authorized by the (title of authorizing officer) on (date), the attached Constitution and Bylaws (Amendment, Charter or Charter Amendment) of the (name of tribe) was submitted to the qualified voters of the tribe and on (date), was duly (adopted) (ratified) (rejected) or (revoked) by a vote of (number) for and (number) against and (number) cast ballots found spoiled or mutilated in an election in which at least 30 percent (or such "percentages" as may be required to amend according to the constitution) of the (number) members entitled to vote, cast their ballot in accordance with (appropriate Federal statute). Signed: (By the chairman of the election board and board members.)

Date: _____

§ 81.24 Approval, disapproval, or rejection action.

(a) Action to approve or disapprove constitutional actions will be taken promptly by the authorizing officer following receipt of the original text of the material voted upon and the original of the Certificate of Results of Election from the officer in charge.

(1) When required and granted, the authorizing officer shall furnish a tribe with written approval of constitutional actions. In the absence of an election challenge, the approval shall be issued promptly following the expiration of the contest period. Copies of his/her written approval, the Certificate of Results of Election, and the text of the material voted upon shall be transmitted to the Commissioner of Indian Affairs, 18th and C Streets, NW., Washington, DC 20245.

(2) When a proposed constitution or charter action is rejected by the voters, the authorizing officer shall indicate in writing to the tribe his/her awareness of the election results and send to the Commissioner of Indian Affairs in Washington, DC, copies of the communication, the Certificate of Results of Election and the text of the material voted upon.

(3) When the authorizing officer disapproves a constitutional action, he/she shall in writing promptly notify the tribe of the determination and furnish the Commissioner of Indian Affairs in Washington, DC, a copy of the communication along with the Certificate of Results of Election and the text of the material voted upon.

(b) Where Secretarial approval of proposed constitutional and charter actions is required in conjunction with authorization of an election, copies of the formal approval shall immediately be furnished the Commissioner of Indian Affairs in Washington, DC, by the authorizing officer and be followed in accordance with paragraph (a)(1) of this section by copies of the Certificate of the Results of Election and the text of the material voted upon as soon as it is available.

PART 82—PETITIONING PROCEDURES FOR TRIBES REORGANIZED UNDER FEDERAL STATUTE AND OTHER ORGANIZED TRIBES

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AUTHORITY: 5 U.S.C. 301, and 25 U.S.C. 2, 9, 473a, 476, 477 and 503.

SOURCE: 46 FR 1675, Jan. 7, 1981, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 82.1 Definitions.

As used in this part:

(a) *Area Director* means the Director of the Bureau Area Office having administrative jurisdiction over the petitioners' tribe.

(b) *Bureau* means the Bureau of Indian Affairs.

(c) *Charter* means a charter of incorporation the Secretary may issue to a recognized tribe pursuant to a Federal Statute.

(d) *Commissioner* means the Commissioner of Indian Affairs or his/her authorized representative.

(e) *Constitution* or *Constitution and Bylaws* means the written organizational framework of any tribe for the exercise of governmental powers.

(f) *Eligible, entitled, or qualified voter* means the status achieved by a tribal member who meets the requirement of a tribal constitution or election ordinance to vote in a tribal election; provided, that where a tribe has reorganized pursuant to a Federal Statute, to be an entitled or a qualified voter for purposes of this part, the tribal member must be at least 18 years of age and be eligible to register for voting in a Secretarial election (see part 81 of this chapter).

(g) *Federal Statute* means one of the following: (1) The Act of June 18, 1934, 48 Stat. 984, as amended (Indian Reorganization Act), (2) the Act of June 26, 1936, 49 Stat. 1967 (Oklahoma Indian Welfare Act), or (3) the Act of May 1, 1936, 49 Stat. 1250 (Alaska Native Reorganization Act).

(h) *Local Bureau Official* means the Superintendent, Field Representative, or other line officer of the Bureau of Indian Affairs who has local administrative jurisdiction over the tribe concerned.

(i) *Local Bureau unit* means the Bureau office having local administrative jurisdiction over the tribe concerned.