

(1) A ballot that is mutilated and not cast. In this case, the mutilated ballot may be exchanged for a new one. If the need arises to exchange a mutilated absentee ballot, no additional time will be provided for the new ballot to be received by the election board.

(2) A ballot that is mutilated and cast. A mutilated cast ballot is to be counted in the same manner as a spoiled cast ballot.

(m) *Officer in Charge* means the Superintendent, Administrative Officer, or other official of the local unit of the Bureau of Indian Affairs (or a Bureau employee that such person might designate) having administrative jurisdiction over a tribe.

(n) *Official ballot* means a ballot prepared by the Bureau of Indian Affairs for use in an election pursuant to this part. It is possible that an official ballot may be found to be either spoiled or mutilated at the time the votes are counted.

(o) *Registration* means the act whereby persons, who are eligible to vote, become entitled or qualified to cast ballots by having their names placed on the list of persons who will be permitted to vote.

(p) *Reorganized tribe* means a tribe whose members have adopted a constitution pursuant to a Federal Statute.

(q) *Reservation* means any area established by treaty, Congressional Act, Executive Order, or otherwise for the use or occupancy of Indians.

(r) *Revocation* means that act whereby the adult members of a tribe vote to abandon their constitutional form of government as opposed to their voting to amend or totally revise it.

(s) *Secretarial election* means an election held within a tribe pursuant to regulations prescribed by the Secretary as authorized by Federal Statute (as distinguished from *tribal* elections which are conducted under tribal authority. (See *Cheyenne River Sioux Tribe v. Andrus*, 566 F. 2d 1085 (8th Cir., 1977), cert. denied 439 U.S. 820 (1978)).

(t) *Secretary* means the Secretary of the Interior or his/her authorized representative.

(u) *Spoiled ballot* means an official ballot that has been marked in such a way that it is not possible to determine

the intent of the voter, a ballot that has not been marked at all, or one that has been marked so as to violate the secrecy of the ballot. There are two kinds of spoiled official ballots:

(1) A ballot that is spoiled and not cast. In this case, the spoiled ballot may be exchanged for a new one. If the need arises to exchange a spoiled absentee ballot, no additional time will be provided for the new ballot to be received by the election board.

(2) A ballot that is spoiled and cast. A spoiled cast ballot is to be counted in tabulating the total votes cast in conjunction with determining whether the required percentage of the qualified voters has participated in the election.

(v) *Tribal government* means that entity established pursuant to a tribal constitution as empowered to speak for the tribe or in the absence thereof any group or individual that is recognized by the tribal members as empowered to speak for the tribe.

(w) *Tribe* means: (1) Any Indian entity that has not voted to exclude itself from the Indian Reorganization Act and is included, or is eligible to be included, among those tribes, bands, pueblos, groups, communities, or Alaska Native entities listed in the FEDERAL REGISTER pursuant to §83.6(b) of this chapter as recognized and receiving services from the Bureau of Indian Affairs; and (2) any group of Indians whose members each have at least one-half degree of Indian blood for whom a reservation is established and who each reside on that reservation. Such tribes may consist of any consolidation of one or more tribes or parts of tribes.

(x) *Voting district* means a geographical area established to facilitate a tribal election process.

§81.2 Purpose and scope.

(a) The purpose of this part is to provide uniformity and order in:

(1) Holding Secretarial elections for voting on proposed constitutions when tribes wish to reorganize,

(2) Adopting constitutional amendments,

(3) Ratifying and amending charters,

(4) Revoking constitutions, and

(5) Facilitating the calling of such elections by the Secretary under provisions of a Federal Statute.

Bureau of Indian Affairs, Interior

§ 81.5

(b) This part may also be used as a guideline by tribes wishing to hold constitutional elections that are not held pursuant to a Federal Statute.

(c) Where a discrepancy might appear to exist between these regulations and a specific requirement of the statute governing the reorganization of a tribe or ratification and amendment of charters, the regulations shall be interpreted to conform with the statute.

(d) As much as possible, Secretarial elections shall be scheduled so as to avoid their being held at the same time as *tribal* elections in order to avoid the confusion that results from different requirements for each kind of election.

§ 81.3 Group eligibility.

(a) No tribe which has voted to exclude itself from the provisions of the Indian Reorganization Act, or is otherwise precluded by law, may be reorganized under a Federal Statute. Tribes wishing to reorganize or a reorganized tribe seeking to amend its constitution and bylaws or wishing to vote to revoke such document shall do so under the regulations in this part.

(b) Charters issued to reorganized tribes shall be ratified or amended under the regulations in this part.

§ 81.4 Assistance from the Department of the Interior.

Representatives of the Department of the Interior will cooperate with and offer advice and assistance (including the proposing of amendments), to any tribe in drafting a constitution and bylaws, an amendment, a charter or charter amendment, or in revocation of constitutions. Any payments that might be necessary to non-Bureau staff assisting in the conduct of the election shall be made from tribal funds.

§ 81.5 Request to call election.

(a) The Secretary shall authorize the calling of an election to adopt a constitution and bylaws or to revoke a constitution and bylaws, upon a request from the tribal government.

(b) The Secretary shall authorize the calling of an election to adopt a constitution and bylaws pursuant to a Federal Statute upon receipt of a petition bearing the signatures of at least 60 percent of the tribe's adult members.

(c) The Secretary shall authorize the calling of an election to ratify a charter at the time the charter is issued, but he/she may issue a charter to a reservation-based tribe only upon petition by at least one-third of the adult members of the tribe. No ratification, however, shall be valid unless the tribe has a constitution adopted and approved pursuant to the relevant Federal Statute.

(d) The Secretary shall authorize the calling of an election on the adoption of amendments to a constitution and bylaws or a charter when requested pursuant to the amendment article of those documents. The election shall be conducted as prescribed in this part unless the amendment article of the constitution and bylaws or the charter provides otherwise, in which case the provisions of those documents shall rule where applicable.

(e) If the amendment provisions of a tribal constitution or charter have become outdated and amendment can not be effected pursuant to them, the Secretary may authorize an election under this part to amend the documents when the recognized tribal government so requests.

(f) Any authorization not acted upon within 90 days (tribes in Alaska shall be granted 120 days) from the date of issuance will be considered void. Notification of the election date as provided for in § 81.14 shall constitute the action envisioned in this section. Extension of an authorization may be granted upon a valid and reasonable request from the election board. Copies of authorizations shall be furnished the requesting tribe or petitioners.

(g) In those instances where conflicting proposals to amend a single constitutional or charter provision are submitted, that proposal first received by the officer in charge, if found valid, shall be placed before the voters before any consideration is given other proposals. Other proposals shall be considered in order of their receipt; provided, they are resubmitted following final action on the initial submission. This procedure shall also apply in those instances where new or revised constitutions are at issue.