EMERGENCY IMPLEMENTING RULES AND REGULATION GOVERNING NATIONAL ELECTIONS

Part 1. General Provisions

1.1 Authority

These regulations are promulgated pursuant to the Revised National Election Act of 2005, codified at 9 F.S.M.C. §§ 101 et seq. and supersede all prior versions of national election regulations.

1.2 Persons Authorized to Administer Oaths

The following persons may administer oaths and attest to and receive affidavits on application for registration and any other documents required by title 9 of the FSM Code:

(a) The National Election Director;
(b) The Assistant National Election Director;
(c) National Election Commissioners;
(d) Chairpersons of the Election Boards, after taking an oath pursuant to subpart 3.3;
(e) Any person authorized by law to be a notary public; and
(f) Any other person expressly authorized by the National Election Director.

Part 2. Candidates

2.1 Eligibility of Candidates

(a) To be eligible for election as a member of the Congress, a person must:

(i) have attained the age of 30 years by Election Day;

(ii) be a resident of the State from which he or she is seeking election on Election Day and for at least 5 years prior to that date;

(iii) be a citizen of the Federated States of Micronesia on Election Day and for at least 15 years prior to that date;

(iv) not be under a judgment of mental incompetency or insanity; and

(v) not have been convicted of a felony by a State or National Court of the Federated States of Micronesia or its predecessor Government of the Trust Territory of the Pacific Islands.

(b) A resident for purposes of subpart 2.1(a) (ii) is a resident under the laws of the State where he or she registers to vote; or a citizen of FSM having physical presence in any of the four states of the Federated States of Micronesia, or being absent from the FSM and temporarily residing or visiting abroad by reason of study, employment, or recreation, always has the intention of treating a State in the FSM as his or her permanent place of abode and to return to such State after temporary stay abroad.

(c) Conviction of felony refers to a final judgment of conviction, or a judgment of conviction pending appeal, issued by a national court of the FSM or a State court. An executive clemency extended to the convict in any form or manner shall not remove the disqualification.

(d) A candidate holding an elective or appointive office in the National Government or a State Government need not resign from his or her present office to qualify as candidate. No position in the government shall be used to illegally or unduly influence voters to favor or deny support to any candidate.

2.2 Nomination of Candidates

(a) Candidates who wish their names to be included on the official ballot must submit the following nomination papers to the National Election Commissioner of the State concerned or the National Election Director within 120 days prior to a general election or 40 days prior to a special election:

(i) A sworn or notarized affidavit signed by the candidate (see Appendix A);

(ii) A petition signed by at least twenty-five (25) qualified voters of the State wherein the candidate seeks election or single-member congressional district wherein the candidate seeks election, as the case may be (see Appendix B);

(iii) A filing fee of $100.00 by personal check, cashier's check or money order payable to the National Treasury; and

(iv) Two (2) recent passport-size photographs of the candidate.

(b) The last day for submission of nomination papers shall be publicized by the National Election Director throughout the nation by posting announcement in public places or by radio broadcast if available. The National Election Commissioners shall assist the National Election Director to disseminate this information.

(c) The petition submitted under this subpart shall specify whether the candidate is running for a four-year or a two-year term seat in Congress.

2.3 Write-In Candidates

Candidates who failed to submit nomination papers under subpart 2.2 (a) or whose nomination materials have not been submitted by the deadline may proceed as write-in candidates only. Candidates elected by write-in vote shall, after the final result has been determined under part 10, submit the requirements under paragraph (a) of subpart 2.2 of these regulations, except for the petition referred to in subparagraph (ii) thereof.

2.4 Verification of Candidate Nominations

(a) Upon receiving candidate nominations from the four States, the National Election Director shall consolidate all the lists of candidates for the four States and thereafter copies of consolidated list to the National Election Commissioners.

(b) The National Election Commissioners shall upon receipt of the consolidated list of candidates issue written request to the Supreme Court and the Attorney General of their respective States to confirm whether any of the candidates has been convicted of a felony, or adjudged to be mentally incompetent or insane, by a court of that State or its predecessor Government of the Trust Territory of the Pacific Islands. In this context, a "felony" means any crime defined in FSM or any State thereof to be punishable by imprisonment of more than one year.

(c) The National Election Director shall likewise issue written request to the FSM Department of Justice to confirm whether any of the candidates has been convicted of a felony by a national court or its predecessor Government of the Trust Territory of the Pacific Islands. The term "felony" shall have the same meaning as provided under paragraph (b) of this subpart.

(d) The National Election Commissioners and the National Election Director shall verify from the office of Public Health and any relevant offices and agencies in the National and State Governments responsible for maintaining records of mentally incompetent or insane persons to

confirm if any of the candidates appear in the records as mentally incompetent or insane. Any candidate found to be mentally incompetent or insane or has a felony conviction shall be disqualified to proceed as candidate, without prejudice to criminal prosecution resulting from submission of false information.

(e) If printing of the official ballot was already completed before the disqualification or record of felony conviction was discovered, re-printing of ballots shall be done if it is feasible. If re-printing is not feasible, every effort shall be exerted to notify all election officials to have the name of the disqualified candidate stricken from the official ballot before being handed out or mailed, as the case may be, to voters.

(f) Complete nomination papers shall be hand-delivered to the National Election Commissioner or National Election Director for proper receipt and filing. Filing by mail or of incomplete nomination papers shall not be accepted.

2.5 <u>Disqualification, Withdrawal, Death and Substitution of Candidates</u>

(a) A candidate may at any time before Election Day withdraw his or her candidacy by writing a notice to the National Election Director or a National Election Commissioner, except that withdrawal of candidacy is not allowed in a special election. Withdrawal of candidacy does not authorize recovery of nomination papers and all other documents and information already filed with the election office or the fee paid pursuant to subpart 2.2 of these regulations.

(b) The printing of ballots shall be completed no later than 50 days of a general election and no later than 35 days of a special election. Where a candidate after filing his or her nomination paper dies or is disqualified for any cause, his or her name shall not be printed on the official ballot. If his or her name is already printed on the official ballot, re-printing if feasible shall be done without his or her name. The death or disqualification of candidate contemplated herein shall not authorize recovery of nomination papers and all other documents and information already filed with the election office or the fee paid pursuant to subpart 2.2 of these regulations.

(c) Where the death, disqualification or withdrawal of candidate occurs more than 70 days before a general election, or more than 30 days before a special election, has resulted in either, no candidates or, an unopposed candidate running for a particular seat in Congress, substitute candidates may be nominated. Substitute nominations may be filed in

the same manner as original nominations prior to 60 days before a general election, or 20 days before a special election.

(d) Where the death, disqualification or withdrawal of candidate occurs not more than 70 days before a general election or not more than 30 days before a special election, the National Election Director shall determine whether it is feasible to conduct the national election as scheduled taking into account logistics, personnel and the like. If the original schedule is not feasible, the National Election Director shall recommend to the President the earliest feasible and practicable date to hold the election. Where the disqualification or withdrawal of candidate results in incurring additional cost in printing or re-printing of ballots or in the holding of national election, the National Election Director at his discretion may demand reimbursement from the candidate if the disqualification or withdrawal resulted from bad faith, malice, or an intentional or deliberate decision without regard for the additional cost.

(e) For purposes of counting the periods contemplated in this paragraph, the day of election, for both general and special elections, shall be the day set by law as Election Day, regardless of the day of actual casting of votes.

(f) Any misrepresentation or fraudulent nomination papers filed in compliance with these regulations shall result in disqualification of candidate.

(g) Any qualified and registered voter may file a verified written petition with the National Election Commissioner or National Election Director seeking to disqualify a candidate on material grounds or based on any grounds for disqualification under 9 F.S.M.C. 201 or any provision of these regulations. Upon being required by the National Election Director, petitioner shall submit all pertinent documents or information in support of his or her petition. The National Election Director shall resolve the petition as soon as possible giving the parties minimum amount of notice or due process, and with or without a formal hearing conducted. The petition shall be resolved before the Election Day. The decision of the National Election Director shall be final. Any petition filed without basis or reasonable belief as to its merit shall be treated as harassment and summarily denied.

Part 3. Election Officials

3.1 Election Boards

(a) The National Election Commissioners shall not later than January 2nd of each election year appoint an election board composed of at least 2 members for each polling place. One member shall be designated as chairperson. Prior to appointment of members to constitute the election board they must seek approval from the National Election Director. Members of the election board must be legal residents of the State and Congressional Election District for which they are appointed to serve. In making the recommendation, the National Election Commissioners shall be mindful that the individuals recommended are of FSM and persons of integrity, impartiality and probity. Conviction of any crime involving dishonesty or moral turpitude shall be a ground for automatic disqualification. The National Election Director has the final authority to consider, review and approve the appointment under this subpart.

3.2 Counting and Tabulation Committees

(a) The National Election Commissioners shall not later than January 2nd of each election year appoint counting and tabulation committee composed of 3 members in each polling place. Prior to appointment of members to constitute the counting and tabulation committee, they must seek approval from the National Election Director. Members of the counting and tabulation committee must be legal residents of the State and Congressional Election District for which they are appointed to serve. In making the recommendation, the National Election Commissioners shall be mindful that the individuals recommended are of FSM and persons of integrity, impartiality and probity. Conviction of any crime involving dishonesty or moral turpitude shall be a ground for automatic disqualification. The National Election Director has the final authority to consider, review and approve the appointment under this subpart.

(b) For each Counting and Tabulation Committee, the National Election Director shall, upon recommendation of the National Election Commissioner of the relevant State, designate one committee member as Chairperson.

(c) Where counting and tabulation is conducted at a centralized location, the National Election Director shall appoint a Chairperson of the centralized counting and tabulation facility.

(d) The Counting and Tabulation Committee members and Chairperson shall remain present at the counting and tabulation location during the entire counting and tabulation process for a given ballot box. The Chairperson of a centralized counting and tabulation facility shall remain present at

that facility during the entire counting and tabulation process for all ballot boxes at that facility.

(e) Whenever possible, members of the Counting and Tabulation Committees must not be members of the Election Boards. In cases where it is infeasible to staff the counting and tabulation committees with different members, then the Election Board shall conduct the counting and tabulation.

(f) For special polling places located outside of the Federated States of Micronesia, Counting and Tabulation Committees may be composed of the staff of an FSM Embassy or Consulate, subject to the terms and having the powers and duties of title 9 of the FSM Code and these regulations. Such establishment shall not be made without the consent of the FSM Department of Foreign Affairs.

3.3 Oath of the Members Election Board and Counting and Tabulation Committees

The members of the election boards and Counting and Tabulation Committees whether permanent, substitute or temporary, shall before assuming their office, take and sign an oath upon forms prepared by the National Election Director before an officer authorized to administer oaths. The oaths taken shall be sent to the National Election Commissioners or National Election Director for filing.

3.4 Qualification and Disqualification of Members of Election Board and Counting and Tabulation Committees

(a) Person appointed as chairman, member or substitute member of the Election Board or Counting and Tabulation Board must be of good moral character and irreproachable reputation.

(b) In appointing the chairmen and members of Election Boards and Counting and Tabulation Boards, the National Election Director and National Election Commissioners must be mindful not to select or recommend persons who are close relatives to any candidate to avoid conflict of interest or any appearance of impropriety.

3.5 Powers and Duties of Election Boards

(a) Election Board Members shall perform the following tasks within the five-day period of their employment:

(i) Conduct the voting and counting of votes in their respective polling places;

(ii) Act as deputies of the Commission in the supervision and control of the election in the polling places wherein they are assigned, to assure the holding of the same in a free, orderly and honest manner;

(iii) Attend workshops;

(iv) Administer voting at mobile polling places;

(v) Conduct voter registration updates;

(vi) Post signature list and other notices in conspicuous public places;

(vii) Administer voting on Election Day;

(viii) Prepare ballot boxes if designated by the National Election Commissioner; and

(ix) Perform other duties as assigned by the National Election Director or National Election Commissioner.

(b) The Chairperson and Election Board members shall remain at the polling place at all times while the polls are open, except as permitted under subpart 7.10 and part 8 of these regulations.

3.6 Compensation of Election Workers

The uniform rate of compensation for all FSM election workers shall be as follows:

(a) Local Election Board Members ---------- $35 per day

(b) Central Counting and Tabulating Committee Members------ $50 per day

(c) Local Counting and Tabulating Committee Members--------- $35 per day

(d) Short Term Staff---------- $20 per day

(e) Boat Drivers and Vehicle Drivers---------- $35 per day

(f) Clerk Typist in each State---------- $250 biweekly

(g) Electoral Aides in each State---------- 350 biweekly

(h) Administrative Assistant/Electoral Aide to National Election Director----------$576 biweekly

(i) Overseas Election Board Members---------- $75 per day

(j) FSM National Government Employees Assisting with Elections After Regular Working Hours---------- $20 per day

(k) Rental of boat (excluding fuel) – maximum----------$55 per day

(l) Rental of vehicle (excluding fuel) – maximum----------$55 per day

3.7 Conditions of Employment

(a) Election officials shall be employed no longer than five days during each election. Additional workdays may be added for good cause shown and with the prior approval of the National Election Director.

(b) All election officials shall abide by all provisions of title 9 of the FSM Code, including but not limited to, the code of conduct under subsection 301(3) of that title, and these regulations.

Part 4. Registration

4.1 Who May Register

(a) FSM citizens qualified to vote and who intend to vote in a national election and who have not at anytime registered to vote. The general eligibility requirements of voter are as follows:

(i) must be living;

(ii) at least 18 years of age or older on Election Day;

(iii) a resident of a State;

(v) a registered voter for at least 30 days immediately preceding Election Day;

(vi) not currently under a judgment of mental incompetency or insanity; and

(vi) not currently under parole, probation, or sentence for any felony for which he has been convicted by any court of the Federated States of Micronesia.

(b) Registered voters in a prior election who had their names changed by order of court. The application must be accompanied by a certified true copy of an order issued by a court of competent jurisdiction. The application shall state both the prior and present names.

(c) Registered voters in a prior National of State election may apply for a change of his or her place of registration subject to the following rules.

(1) Where the change involves a Congressional Election District or Municipality of residency of the same State of registration, the applicant shall submit an affidavit stating: (i) the length of time that applicant has changed residence, (ii) the reason/s for the change, and (iii) that the application for change of registration is being filed for legitimate purpose and not to commit fraud or attain improper objective. For this purpose, the applicant must fill out a prescribed form. See, appendix I.

(2) Where the change involves another State of residency, the applicant must submit, in addition to the requirements under paragraph (1) of this section (c), an affidavit of at least one registered voter in the State which the applicant wishes as his or her new State of residency stating that he knows the applicant is physically residing in the new State. For this purpose, the applicant must fill out a prescribed form. See, appendix J.

4.2 Materials to be Submitted for Registration; Notification of Approval of Application

(a) To register or re-register to vote in National Elections, or to change the place or name of registration, a person must present at a National Election Office or State Election Office in the State in which the person is a resident, or a mobile registration location as designated by the National Election Commissioners with the approval of the National Election Director, the following materials:

(1) A Voter Registration Application and Sworn Affidavit (see Appendix C); and

(2) One of the following forms of official identification:

(i) Passport;

(ii) Driver's License;

(iii) Birth Certificate; or

(iv) Baptismal Certificate; and

(3) Additional documentation and/or witnesses to sufficiently establish that the person:

(i) Currently resides in the State and election district in which he seeks to register to vote; and

(ii) Satisfies any residency requirements under State law.

(b) On the voter Registration Application and Sworn Affidavit, the person submitting the application shall specify whether he is –

(1) Registering to vote for the first time;

(2) Registering to vote;

(3) Changing his or her State and/or election district of registration; or

(4) Changing his or her name of registration.

(c) Upon approving an application to register or re-register to vote, or to change the place or name of registration, the National Election Commissioner, or his designee, shall send to the applicant by mail or other means a written notification that his or her application has been approved.

(d) Application for registration must be submitted in person by the applicant, except as allowed under section 406 of the Revised National Election Act for student voters.

4.3 Registration of Students

A student seeking to register to vote while residing outside his or her State or election district shall submit by hand or mail to the National Election Commissioner of the State in which he desires to vote the following materials:

(a) A Voter Registration Application and Sworn Affidavit (see Appendix C); and

(b) A letter from his or her institution of learning establishing his or her current enrollment in that institution.

4.4 Continuing Registration; Deadline for Registration

The National Election Commissioner shall receive application for registration on a continuing and regular basis until 30 days immediately prior to Election Day. However, deadline for application of registration may from time to time be changed upon order of the National Election Director. Appropriate prior notice shall be given to the public.

4.5 Voter Identification Cards

(a) An application for FSM Voter Identification Card (see Appendix D) shall be submitted by a citizen of the FSM:

(1) In the case of a person registering to vote in an election district for the first time after August 1, 2007, along with a Voter Registration Application and Sworn Affidavit (see Appendix C); or

(2) In the case of a person who registered to vote in an election district prior to August 1, 2007, on or before December 31, 2011.

(b) An Application for FSM Voter Identification Card must be submitted by the applicant in person at either a National Election Commissioner's Office or a mobile registration location. Along with his or her Application for FSM Voter Identification Card, an applicant shall submit the following application fee:

(1) First Voter Identification Card . . . . . Free

(2) Replacement Card Fee $2.50

All fees shall be paid by cash, cashier's check, money order, Bank of FSM personal check or Bank of Guam personal check. No foreign currency or foreign personal checks shall be accepted. Checks shall be made out to "FSM Treasury".

(c) At the time of submission or an Application for FSM Voter Identification Card, the applicant shall present one of the following forms of personal identification:

(1) Passport;

(2) Driver's License;

(3) Birth Certificate;

(4) Military Identification;

(5) Social Security Card;

(6) Baptismal Certificate; or

(7) Health Insurance Card.

(d) The National Election Commissioner, or his designee, shall provide the applicant with a receipt indicating that the applicant has submitted a completed application and requisite fee, and providing the date when and place where the applicant may pick up his or her Voter Identification Card. The applicant shall present his or her receipt to the National Election Commissioner, or his designee, when picking up his or her Voter Identification Card.

(e) Notwithstanding paragraphs (b) and (c) of this subpart, a student attending an institution of learning outside his or her election district, or an FSM citizen residing on an outer island of the FSM or outside the FSM, may submit and Application for FSM Voter Identification Card and requisite fee by mail to the National Election Director, P.O. Box 1658, Kolonia, Pohnpei FM 96941. The foregoing persons may also submit their applications in person at an FSM Embassy or Consulate. The FSM Embassy or Consulate shall then forward the application and application fee to the National Election Director. In addition to the fee specified in paragraph (b) of this subpart, a person submitting an application under this paragraph must also submit:

(1) Two 1 inch by 1 inch color digital photographs of the applicant showing current appearance from a frontal, full face view with a plain white or off-white background; and
(2) A postage and handling fee of $1.00 if the applicant resides inside the FSM or $2.00 if the applicant resides outside the FSM.

(f) Digital photographs may be submitted by e-mail to ned@mail.fm , or on a computer disk or CD which will not be returned to applicant. Fees for applications submitted under this paragraph shall be paid by cashier's

check, money order, Bank of FSM personal check or Bank of Guam personal check only.

(g) No cash, foreign currency or foreign personal checks shall be accepted. Checks shall be made out to "FSM Treasury". Voter Identification Cards shall be mailed to applicants at the address indicated on their application forms.

Part 5. Procedure for Ballots

Reserved.

Part 6. Procedures for Absentee Voters

6.1 Notice of Elections

The National Election Commissioners shall utilize means of communication available to their States to disseminate election information, news and materials to FSM absentee voters, in order for them to participate in National Elections.

6.2 Information on Procedures for Absentee Voting

Upon request, the National Election Commissioner will provide voters with brochures that answer the most frequently asked questions concerning absentee voting. This information will be provided to FSM Embassies and Consulates outside the FSM sufficiently in advance of the election to permit citizens residing abroad to request and return absentee ballots in a timely manner.

6.3 Materials to be Submitted to Request to Vote by Absentee Ballot

(a) To vote by absentee ballot in a National Election, a person must submit an Application to Vote by Absentee Ballot (see Appendix E) to the National Election Commissioner of the State in which the voter is registered, or to the appropriate FSM Embassy or Consulate if the voter resides abroad, within the time period specified by title 9 of the FSM Code for the particular type of absentee ballot. The voter must clearly specify on his or her application which one of the following types of absentee ballots he desires to vote in the National Elections:

(1) by mail;

(2) by voting at a mobile polling place;

(3) by voting at a VAAPP (Voting at Another Polling Place) in another election district in the same State;

(4) by voting at a special place within or outside the FSM; or

(5) by voting at a traveler polling place.

(b) No person shall be permitted to complete or submit an Application to Vote by Absentee Ballot on behalf of another voter, with the exception of absentee voters requesting to vote at a mobile polling place who are not physically able to complete and/or deliver the application themselves.

(c) Application to Vote by Absentee Ballot by voters residing within the Federated States of Micronesia but outside of the State in which the election is being held, may be made to the National Election Commissioner of the State in which the election is being held but directed to the National Election office in the State in which the voter resides. For example, a voter living in Pohnpei but voting in Chuuk election may request an absentee ballot by addressing an Application to Vote by Absentee Ballot to the National Election Commissioner of Chuuk, care of the National Election Office in Kolonia, Pohnpei.

(d) Absentee voters seeking to vote by mail who reside overseas in a location where the FSM maintains an Embassy or Consulate may indicate on their Application to Vote by Absentee Ballot that they may wish to pick up their absentee ballot materials in person at the Embassy or Consulate. They can then pick up and cast their absentee ballots at the Embassy or Consulate beginning ten (10) days before Election Day.

(e) Absentee voters seeking to vote at a VAAPP or special polling place may indicate on their Application to Vote by Absentee Ballot his or her intention to vote at the specified. VAAPP or special polling place on a permanent basis until the voter provides written notification that he wishes to resume voting at his or her polling place of registration. If the voter chooses his or her option, the voter shall not be required to submit an Application to Voter by Absentee Ballot prior to any future elections so long as he continues to vote at the designated VAAPP or special polling place.

(f) Absentee voters with valid Voter Identification Cards need not submit an Application to Voter by Absentee Ballot if they plan to vote at a VAAPP or special polling place. However, they must submit applications for all other forms of absentee voting.

(g) Upon receipt of an Application to Vote by Absentee Ballot delivered in person by an absentee voter, the National Election Commissioner, or his designee, shall provide the voter with a receipt indicating that the voter has submitted a completed application. If the absentee voter sent the Application to Vote by Absentee Ballot through the mail, he may pick up his receipt at the National Election Office, FSM Embassy or FSM Consulate to which he mailed the Application to Vote by Absentee Ballot. Alternatively, the absentee voter may include a self-addressed envelope with sufficient return postage along with his or her Application to Vote by Absentee Ballot in which the receipt shall be returned to the absentee voter.

6.4 Materials to be Provided by the National Election Commissioners to Vote by Absentee Ballot by Mail or at Traveler Polling Places

(a) Upon receiving an Application to Vote by Absentee Ballot either by mail or at a traveler polling place, the National Election Commissioner shall first determine the applicant's eligibility to vote by absentee ballot in the National Election. If the applicant is eligible to vote by absentee ballot, the National Election Commissioner shall promptly provide the voter the following election materials by the means, at the location and within the time period specified in title 9 of the FSM Code:

(1) The official ballot(s) for the National Election;

(2) A ballot envelope that the absentee voter shall place his or her official ballot(s) once cast;

(3) An affidavit (see Appendix F); and

(4) A return envelope that will contain the ballot envelope and affidavit.

(b) The affidavit specified in subparagraph (a) (e) of this subpart must be completed and signed by the absentee voter himself. The absentee voter need not have the affidavit notarized.

(c) Overseas absentee voters who send or deliver their Application to Vote by Absentee Ballot to an FSM Embassy or Consulate, or pick up their absentee voter materials from an FSM Embassy or Consulate, may either (1) mail their absentee ballots and affidavit directly to the National Election Commissioner of (2) mail or deliver such materials in person to the same Embassy or Consulate. Regardless of the option chosen by the voter, the voter's completed absentee voter materials must be received

by the Consulate, Embassy or National Election Commissioner no later than the established closing hour of the polls on Election Day.

(d) Absentee ballots that are received through the mail in bundles or packages containing more than one ballot shall not be counted. Likewise, absentee ballots that are hand-delivered or hand-carried to the return location by anyone other than the absentee voter personally shall not be counted.

6.5 Handling and Disposition of Absentee Ballots by Mail or at Traveler Polling Places

(a) Upon the receipt of an absentee ballot by mail or at a travel polling place, the National Election Commissioner or his designee shall perform the following confirmations:

(1) That the absentee ballot was received within the time period specified by title 9 of the FSM Code and was not received in a bundle with other ballots;

(2) That the absentee ballot envelope has not been subject to tampering;

(3) That the absentee voter is eligible to vote by absentee ballot and has not already voted;

(4) That the affidavit accompanying the absentee ballot is complete and properly executed; and

(5) That the signature on the affidavit and the signature contained on the voter's Application to Vote by Absentee Ballot match.

(b) If all of the confirmations under paragraph (a) of this subpart for a given absentee ballot are made, the ballot envelope shall be deposited unopened in a container retained for that purpose. The container shall be securely sealed except for an opening sufficient to permit deposit of ballots envelopes. The container shall be marked with the name and official title of the National Election Commissioner, and the words "This container holds absentee ballots and must be opened only pursuant to law."

(c) Envelopes containing absentee ballots of absentees voters that are disqualified for any reason will not be opened and each will be marked across its face "INVALID," giving the reason therefore, and shall be

preserved as instructed by National Election Commissioner and in accordance with section 715 of title 9 of the FSM Code and subpart 9.7 of these regulations pertaining to the preservation of ballots and other sensitive election materials.

(d) On Election Day, or as soon as possible thereafter, the absentee ballots shall be counted and tabulated in accordance with the procedures specified in part 9 of these regulations, to the extent possible.

(e) If so authorized by the National Election Director and the Secretary of the FSM Department of Foreign Affairs, the procedures specified in paragraphs (a), (b) and (c) of this subpart may be performed by a designated staff member at an FSM Embassy or Consulate with regard to absentee ballots by mail received at that Embassy or Consulate.

Part 7. Supervision of Polling Places

7.1 Location of Polling Places

(a) Polling places shall be located in an accessible place to allow voters to form and stand in a queue and should, when possible, have level access so that disabled persons shall have unimpeded entry and exit. Polling places shall have adequate lighting and protection from the elements.

(b) There shall be two special polling places located outside of the FSM – one in Honolulu and one in Guam. The actual location of these polling places, preferably at FSM government-controlled premises, shall be determined by the National Election Director.

7.2 Poll Watchers

(a) The entire polling places, with the exception of marking a ballot by a voter, may be observed by not more than two poll watchers per candidate at any given polling place. However, if the election Board Chairperson is of the opinion that the number of poll watchers present is obstructing the polling process, he shall limit the number of poll watchers to one per candidate, and shall record this decision, the time this decision was made and the basis for this decision in the Poll Book.

(b) Not less than seven (7) days before Election Day, each candidate shall submit to the National Election Commissioner of the State where the candidate is running for office a written list of names of his or her poll watchers who will be at each polling place on Election Day. The National Election Commissioner shall then compile a list of poll watchers for each

polling place, and prior to the opening of the polls on Election Day, provide that list to the Election Board Chairperson of that polling place. Only poll watchers on that list shall be allowed to observe the poling process at that polling place.

(c) All poll watchers shall wear nametags, obtained at their own expense, indicating their names and designating themselves as poll watchers.

(d) Poll watchers shall record their names and the candidate they represent in the Poll Book immediately upon entering the polling place.

(e) If a poll watcher engages in campaigning, attempts to influence or harass voters, or engages in any other conduct disruptive to the polling process, the Election Board Chairperson shall instruct the poll watcher to leave the polling place, and shall record this decision, the name of the poll watcher and the candidate he represents, the time this decision was made and the basis for this decision in the Poll Book.

7.3 Poll Book

(a) Each polling place shall have a Poll Book in which important information regarding the conduct of voting shall be noted.

(b) Election Board members shall record in the Poll Book the details (time, persons involved, facts, resolution, etc.) of any irregularities that occur during the voting process or any complaints made by voters or poll watchers at the polling place.

(c) Election Board members shall also permit poll watchers and voters to write their comments concerning an irregularity or complaint in the Poll Book. However, poll watchers and voters shall not be allowed to read other entries in the Poll Book.

(d) The Election Board Chairperson shall ensure that the Poll Book remains in his custody throughout the polling process and is kept safe and secure location.

7.4 Polling Place Security

(a) The Election Board Chairperson, with the assistance of other Election Board members, shall ensure the tranquility and security of the polling process inside the polling place.

(b) The only persons who are allowed access to the polling place are:

(1) The Election Board members;

(2) Voters who are being processed to vote;

(3) Voters who are in the process of casting their ballot;

(4) Not more than two poll watchers representing a particular candidate;

(5) Law enforcement officers providing assistance in the event of a serious disturbance; and

(6) Other persons expressly authorized by the National Election Commissioner or National Election Director to observe the polling process.

(c) In the event, serious disturbance occurs in the immediate vicinity of a polling place, the Election Board Chairperson shall request immediate assistance from law enforcement. The details of the incident shall be immediately noted in the Poll Book, including the time and circumstances of the incident, the persons involved and any action taken to resolve the incident.

(d) In the event that a disturbance turns into a serious threat to the integrity of the polling process or to the people inside the polling place, the Election Board Chairperson may decide to suspend polling and close the polling place until order is re-established. The Election Board Chairperson shall inform the National Election Commissioner immediately of the closure and record the event in the Poll Book, including the period during which polling was suspended.

(e) No person carrying weapons or arms shall be allowed inside the polling place except law enforcement personnel who have been requested by the Election Board Chairperson to provide assistance in restoring order inside a polling place.

7.5 Security of Ballot Box and Election Material Prior to Election Day

(a) Prior to Election Day, the National Election Commissioner or his designee shall deliver to each Election Board Chairperson the following materials:

(1) The ballot box, which shall contain the materials specified in subparagraphs (2) and (3) of this paragraph;

(2) Sensitive polling place materials, which shall include the ballots, the final signature list and copy of the National Voter Registry (in an envelope sealed with a tamper-resistant seal), mobile polling place signature list, supplemental signature list, Material Handover Form (see Appendix G), Reconciliation Form (see Appendix H), Poll Book, indelible ink pens, UV light, ballot box locks and tamper resistant seals; and

(3) Non-sensitive polling place materials which shall include the list of poll watchers, stationary supplies and voter information materials.

(b) Immediately upon receipt of the materials listed in paragraph (a) on this subpart, the Election Board Chairperson shall:

(1) Check the condition of the ballot box and check whether the locks are in place and the keys for the locks work;

(2) Open the ballot box;

(3) Check to determine that all materials are accounted for;

(4) Verify that the tamper-resistant seal on the envelope containing the final signature list and copy of National Voter Registry is still intact;

(5) Open the sealed envelope and confirm that the signature list and copy of National Voter Registry bears the official seal of the National Election Director, is for the correct polling place and has all its pages;

(6) Count the number of ballots;

(7) Complete and sign the Material Handover Form (see Appendix G) indicating the number of ballots received and the receipt of the final signature list and National Voter Registry (tamper-resistant seal serial number and number of pages) and other materials; and

(8) Place all materials back in the ballot box and lock the ballot box.

(c) The National Election Commissioner or his designee shall bring the Material Handover Form back the National Election Office for filing.

(d) If feasible, the Election Board Chairperson shall store the sensitive and non-sensitive polling place materials in a locked and secured location at the polling place until Election Day. If there is no location at the polling place to lock and secure the polling place materials, then the Election Board Chairperson shall find another location to lock and secure the materials. Only the Election Board Chairperson shall have access to the location where the polling place materials are stored. Prior to Election Day, the ballot box shall not be opened, or the election materials removed from the box, except to the extent necessary to conduct absentee voting at mobile polling places pursuant to part 8 of these regulations.

7.6 Procedures Before Opening Polling Place on Election Day

(a) On Election Day, the Election Board Chairperson, with the assistance of the other Election Board members, shall take the polling place materials listed under paragraph (a) of subpart 7.5 of these regulations from the locked and secured location to the polling place.

(b) All Election Board members shall be present at the polling place at least one hour prior to the opening of the polls.

(c) Before opening the polling place on Election Day, the Election Board Chairperson, with the assistance of the other Election Board members, shall:

(1) Count the number of ballots and record the total number of ballots on the Reconciliation Form (see Appendix H);

(2) Open the ballot box in the presence of the Election Board members and any poll watchers who may be present to verify that the ballot box is in fact empty except for any envelopes containing absentee ballots from mobile polling place voting conducted the previous day;

(3) Count the number of envelopes containing absentee ballots from mobile polling place voting, record that number on the Reconciliation Form, and return the envelopes to the lower chamber of the ballot box;

(4) Lock the lower chamber of the ballot box and seal it with a tamper-resistant seal where the lid meets the side of the ballot box in a manner that will prevent the lower chamber of the ballot box from being opened without removing or destroying the seal,

and record the unique serial number of the tamper-resistant seal on the Reconciliation Form;

(5) Ensure that for each and every entry on the mobile polling place signature list for which there is a signature, there is a dark line through an entry on the final signature list and there is written "MPP" in the left margin next to that entry, to indicate that the person has already voted by absentee ballot at a mobile polling place;

(6) Record in the Poll Book the names of all Election Board members;

(7) Record in the Poll Book the names of all poll watchers present as well as the name of the candidates they represent;

(8) Ensure that there are no campaign materials inside or within 100 feet of the polling place, and record in the Poll Book if any such materials is found is inside or around the polling place; and

(9) Post voter information material such as sample ballots at the main entrance to the polling place.

(d) Once voting begins, no one shall open the lid to the lower chamber of the ballot box during the period established for voting on Election Day. Only the Counting and Tabulation Committee shall open the lid to the lower chamber of any ballot box upon commencement of counting and tabulation pursuant to part 9 of these regulations.

(e) The ballot box shall be positioned in clear view of the Election Board members and poll watchers. An Election Board member at all times shall ensure that each voter places his or her ballot – and only his or her ballot – properly in the ballot box.

(f) If during the polling process the polling place receives additional ballots, an Election Board member shall record the number of additional ballots on the Reconciliation Form.

7.7 Hours of Voting

At 7:00 a.m., all polls will be opened and kept open until 5:00 p.m., provide, however, that the Special Polling Places located outside the Federated States of Micronesia shall remain open until 9:30 p.m. Provided further that if an election for State office is held on the same day as the national election and the official time for closing is later than 5:00 p.m. (or 9:30 p.m. at a Special Polling Place), then the closing time for the State

election shall prevail. At the time of closing, if there are any other voters in the polling place, or in line at the door, who are qualified to vote but have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable those voters to vote. Any voter who appears after 5:00 p.m. (or after 9:30 p.m. at a Special Polling Place) shall not be allowed to cast a ballot.

7.8 Administration of Voting at the Polling Places

(a) Regular voting procedure

(1) For each voter that enters the polling place, an Election Board member shall first screen the voter's left and right thumbs for signs of indelible ink using a UV light. Any voter found to have an indelible ink stain on his or her thumb shall not be allowed to vote.

(2) If no indelible ink is detected, the voter shall state his or her name and an Election Board member shall announce the voter's name so that the poll watchers and other Election Board members present in the polling place can hear it. The voter shall thereafter present his or her Voter Identification Card.

(3) The Election Board member shall verify from the Signature List to determine whether the voter's name appears.

(4) If the voter's name does not appear on the Signature List, the provision of subpart (c) hereof shall be observed.

(5) If the voter's name is on the final Signature List and there is no indication that he has already voted, the Election Board member will direct the voter to sign next to his or her name. A voter who refuses to sign his or her name on the final Signature List shall not be allowed to vote.

(6) If the voter is absolutely unable to sign the Signature List due to a physical disability, then the Election Board member shall write "unable to sign" in the space designated for the voter's signature, and then affix his or her initials to the right of the entry.

(7) Once a voter has signed the final Signature List or the Election Board member indicates pursuant to paragraph (6) of this subpart, an Election Board member shall mark the left thumb of the voter with indelible ink. If the voter does not have a left thumb, then the member shall spray the right thumb of the voter

with indelible ink. If the voter has a Voter Identification Card, the Election Board member shall then perforate, using a hole-puncher, the designated space on the card for that election. A voter that refuses to be marked with the indelible ink, or to have his or her Voter Identification Card perforated, shall not be allowed to vote.

(8) After the voter's thumb has been marked with indelible ink, an Election Board member shall issue a ballot to the voter. The Election Board members shall not provide any information or explanation concerning the candidates or issue on the ballot beyond what is stated on the ballot itself.

(9) Upon issuing the ballot to a voter, an Election Board member shall inform the voter that all voting shall be done by secret ballot. The Election Board member shall direct the voter to a screened-off area, out of the line of vision of everyone.

(10) No voter shall be permitted to cast his or her vote outside the designated screened-off area. Poll watchers shall remain outside the screened-off area at all times. Election Board members shall not enter the screened-off area while voters are casting ballots; however, from time to time, when no voters are casting ballots, Election Board members shall inspect the screened-off area to ensure that there are no campaign materials in the area.

(11) The voter shall enter the screened-off area alone to complete his or her ballot; provided, however, that a voter who is disabled and/or illiterate, and therefore unable to complete the ballot without assistance, may be assisted to vote by another person chosen by the voter if he or she so requests assistance. Such person, who must not be a poll watcher, shall only assist one voter. Assisted voting is considered exceptional, and shall be closely monitored by the Election Board.

(12) If the voter has spoiled his or her ballot, he shall surrender the spoiled ballot and request a new ballot. An Election Board member shall write "SPOILED" on the front side of the ballot and place it in an envelope designated "spoiled ballots" and kept in a safe location. A voter shall not be issued more than one ballot at a time, and the number of ballots given him or her under this procedure shall not exceed three in all.

(13) After marking the ballot in the screened-off area, the voter shall place the ballot, one voter at a time, into the ballot box. The voter shall not show his or her marked ballot to anyone. If the voter intentionally shows his or her marked ballot to anyone, the Election Board Chairperson shall:

(i) Confiscate the marked ballot(s) if the voter has not already inserted the ballot(s) through the slot in the lid of the lower chamber of the ballot box;

(ii) Write "SPOILED/OV" on the front side of the ballot(s) and place the ballot(s) in the "spoiled ballots" envelope;

(iii) Record the incident in the Poll Book and write "OV" to the left of the voter's entry on the final Signature List;

(iv) Not allow the voter to cast additional ballot(s); and

(v) Instruct the voter to leave the polling place immediately.

(14) Election Board members shall monitor voters leaving the screened-off area and placing their ballot(s) in the ballot box to ensure that voters do not leave the polling place with their ballot.

(b) Voter without Voter's Identification Card

(1) If the Voter has been issued a voter Identification Card and fails to present such Identification Card at the polling place, he or she shall not be allowed to vote.

(2) If the voter has not been issued a voter Identification Card and the National Election is held before January 1, 2011, he shall be allowed to vote provided that his or her name appears on the Signature List.

(3) If the voter's name does not appear on the Signature List, he will be allowed to vote if his or her name is on the National Voter Registry in accordance with paragraph (c) of this subpart.

(c) Unlisted voters

(1) Unlisted voter is a voter whose name does not appear on the Signature List of the polling place where he cast his or her vote. No unlisted voter shall be allowed to vote unless he signs a supplemental Signature List. If the voter is absolutely unable to sign the supplemental Signature List due to a physical disability, then the Election Board member shall write “unable to sign” in the space designated for the voter’s signature, and then affix his or her initials to the right of the entry.

(2) A person whose name does not appear on the Signature List but who presents a valid Voter Identification Card for that polling place which indicates that he or she has not yet voted shall be allowed to vote.

(3) A person shall be permitted to cast his or her ballot whose name lawfully appears on the National Voter Register but is not listed on the Signature List of the polling place in the State, Congressional Election District or Municipality in which he or she resides and has voted in at least one prior national election, and is not listed on the Signature List of any other polling place.

(4) A person whose name does not appear on the Signature List but lawfully appears on the National Voter Register and is placed on the Signature List of a polling place in a State, Congressional District or Municipality in which the voter does not reside shall be allowed to vote; provided, that, he has not applied to vote absentee ballot pursuant to chapter 6 of title 9.

(5) A person who has applied to vote absentee ballot by mail, or by VAAPP, or in a Traveler polling place shall not be allowed to vote at his or her regular polling place. A voter shall be allowed to cast his or her ballot at any VAAPP polling place designated for his or her Congressional Election District without a written request filed provided that he presents a voter’s Identification Card.

(6) In all cases involving unlisted voter, the Election Board must ascertain the identity of the voter before allowing him or her to vote, either through personal knowledge of such identity held by a member of the Election Board for that polling place or through a valid identification, such as the following, exhibited by the voter. If the voter’s identity cannot be ascertained hereunder, he or she shall not be allowed to vote.

(i) Passport;

(ii) Driver's License;

(iii) Birth Certificate;

(iv) Baptismal Certificate;

(v) Military Identification;

(vi) Social Security Card; or

(vii) Health Insurance Card.

(7) Any Election Board member, poll watcher or registered voter may challenge the identity or eligibility of any person appearing at the polling place to vote.

(8) Every instance of voting by unlisted voter shall be duly recorded in a log book or poll book, including the name of the voter, address, identification exhibited, the fact that his or her identity is known to a member of the Election Board if such be the case, and the name of the Election Board member providing the identification.

7.9 Incidents and Complaints at the Polling Place

(a) Except where title 9 of the FSM Code or these regulations specify how a particular incident or complaint must be resolved, the Election Board Chairperson, in consultation with the other Election Board members, shall endeavor to resolve all incidents or complaints at the polling place in the fairest and most expedient manner that is in conformity with title 9 of the FSM Code and these regulations.

(b) Recorded in the Poll Book by the Election Board Chairperson, including the time of the complaint or incident, the names and personal information (date of birth, place of residence, sex, etc.) of the persons involved, any relevant facts, and resolution, if any, of the complaint or incident. The complainant, the person against whom the complaint is made and any witnesses to the incident or complaint shall have the opportunity to write their comments in the Poll Book so long as they sign their name after their entries.

(c) To the extent that a complaint or incident can be resolved before the close of the polling place, the Election Board Chairperson shall endeavor to do so. Whenever he deems it necessary, the Election Board Chairperson shall contact the National Election Commissioner for advice

on how to resolve an incident or complaint. The National Election Commissioner shall keep a written record of any advice or decisions he makes regarding an incident or complaint at a polling place.

(d) Any person who does not have an incident or complaint resolved in his favor by the Election Board Chairperson, shall be informed by the Election Board Chairperson that the person may file a petition appealing the Election Board Chairperson's decision with the National Election Commissioner within one week of Election Day, or before the National Election Director certifies the results of the National Election in the election district or State concerned, whichever occurs first. The Election Board Chairperson shall offer the person a Complaint Form (see Appendix H) and explain to the person how to fill the form out. If the polling place has run out of Complaint Forms, the Chairperson shall tell the person to pick up the format at the nearest National Election Office or FSM Embassy or Consulate.

7.10 Voting by Election Board Members

(a) Election Board members and the Chairperson shall vote during the regular polling hours.

(b) If an Election Board member is registered to vote at a polling place different from the one at which he is working but located on the same island, the Chairperson shall allow that member to vote at his polling place of registration. The Election Board member shall travel directly to his polling place of registration by the quickest means possible and return immediately to the polling place where he is working. The Chairperson shall ensure that only one Election Board member is absent from the polling place at a time.

(c) If the Chairperson is registered to vote at a different polling place from the one at which he is working but on the same island, the Chairperson will appoint another Election Board member as Deputy Chairperson in his absence. The Chairperson shall travel directly to his polling place of registration by the quickest means possible, and return immediately to the polling place where he is working.

(d) If the Chairperson or an Election Board member is registered to vote at a polling place located on a different island, they must vote by absentee ballot in accordance with the statutory provisions of title 9 and these regulations.

7.11 Procedures for Closing the Polling Places

(a) At 5:00 p.m. (or at such later time if a State election is held on the same day and State law requires a closing time after 5:00 p.m., or at 9:30p.m. for Special Polling Places outside the Federated States of Micronesia) an Election Board member shall inform the last person in the queue that he will be the last to vote. Any person who joins the queue after that person shall not be allowed to enter the polling place.

(b) Once the last voter has voted at the polling place, the Election Board Chairperson shall announce that the polling place is closed.

(c) Immediately after announcing the closure of the polling place, the Election Board Chairperson shall place a tamper-resistant seal over the slot in the lid to the lower chamber of the ballot box through which ballots were placed during the election in view of the poll watchers present. The Election Board Chairperson shall then record the unique serial number on the tamper-resistant seal on the Reconciliation Form (see Appendix H) and record the exact time at which the polling place closed in the Poll Book.

(d) After the polling place is closed, the Election Board Chairperson shall write in the Poll Book the names of the poll watchers and the candidates they represent who are in the polling place. Other than the Election Board members, poll watchers, and other persons expressly authorized by the National Election Director or National Election Commissioner to be present, no other persons should be in the polling place after it is closed.

(e) Election Board members then shall:

(1) Count the number of signatures on the final signature list and write that number on the Reconciliation form;

(2) Count the number of signatures on the supplemental signature list and write that number on the Reconciliation Form;

(3) Count the number of signatures on the mobile polling place signature list and write that number on the Reconciliation Form;

(4) Count the number of remaining unused ballots and write that number on the Reconciliation Form; and

(5) Count the number of spoiled ballots and write that number on the Reconciliation Form, and place them back in the designated envelope.

(f) After completing the relevant portions of the Reconciliation Form, the Election Board Chairperson shall sign the Reconciliation Form and the Election Board members shall place the final signature list, mobile polling place signature list, supplemental signature list, unused ballots, spoiled ballots, the Poll Book, Reconciliation Form and all other election forms and stationary in the upper chamber of the ballot box, and then lock the upper chamber of the ballot box.

(g) After locking and sealing the ballot box, the Election Board Chairperson shall deliver in an expedited and secured banner the box to the Counting and Tabulation Committee Chairperson assigned to that ballot box.

Part 8. Administration of Absentee Voting at Mobile Polling Places

8.1 Procedures Prior to Conducting Mobile Polling Place Voting

(a) Procedures for Localized Mobile Polling Place Voting.

(1) The Election Board Chairperson shall assign two Election Board members to conduct mobile polling place voting either the day before Election Day, on Election Day or during both days; provided however, the Chairperson and at least one other Election Board member must remain at the polling place while the Election Board members are conducting mobile polling place voting on Election Day.

(2) The Election Board members selected to conduct mobile polling place voting shall record their names in the Poll Book and the date and times they conducted the mobile polling place voting.

(3) Prior to embarking on mobile polling place voting, the Election Board members shall compare the entries on the mobile polling place signature list with the entries on the final signature list. No person listed on the mobile polling place signature list who is not also listed on the final signature list shall be allowed to vote by absentee ballot at a mobile polling place, unless that person has a valid Voter Identification Card for that polling place. In such an event, the Election Board members shall follow the procedures specified in subparagraphs (c) (1) and (c) (2) of subpart 7.8 of these regulations for unlisted voters.

(b) Procedures for Centralized Mobile Polling Place Voting.

(1) In locations where there are significant numbers of confined voters, the National Election Director may, upon consultation with the National Election Commissioner of the relevant State, establish one or more centralized mobile polling places.

(2) Upon the recommendation of the National Election Commissioner of the relevant State, the National Election Director shall establish an Election Board, consisting of at least two members, for each centralized mobile polling place, and shall designate one member as Chairperson.

(3) The day before Election Day, the Election Board Chairperson shall obtain from the National Election Commissioner a centralized mobile polling place signature list, ballot box, sufficient ballots a Poll Book, Reconciliation Form (see Appendix H) and other election materials. The Chairperson shall complete a Material Handover Form (see Appendix G).

(4) Before setting out for centralized mobile polling place voting, the Election Board members shall, to the extent applicable, follow the procedures specified in subpart 7.6 of these regulations, including completing the relevant sections of the Reconciliation Form, locking the lower chamber of the ballot box and placing a tamper-resistant seal where the lid to the lower chamber meets the side of the ballot box.

(5) When the ballot box and election materials are not being used by the Election Board members to conduct centralized mobile polling place voting, the box and materials shall be stored in a safe and secure place in the National Election Office.

8.2 Administration of Mobile Polling Place Voting

(a) Localized Mobile Polling Place Voting.

(1) The Election Board members shall visit the location of the confined voters on the mobile polling place signature list and conduct voting in accordance with the procedures specified in subpart 7.8 of these regulations, with the following exceptions:

(i) The voter shall sign the mobile polling place signature list rather than the final signature list;

(ii) If the confined person is physically unable to move to a screened off area, the Election Board members will devise an alternative means to ensure secrecy of the person's vote; and

(iii) The voter shall place his absentee ballot(s) in an envelope labeled "mobile polling place absentee ballot", seal that envelope and give it to the Election Board members to bring to the Election Board Chairperson to insert into the lower chamber of the ballot box.

(2) Each mobile polling place ballot envelope shall contain only the ballot(s) cast by one confined voter.

(3) A confined voter who can mark his ballot without assistance shall do so.

(4) At the conclusion of each session of mobile polling place voting, the Election Board members conducting the mobile polling place voting shall bring the envelopes containing the absentee ballots to the Election Board Chairperson who will insert the envelopes through the slot in the lid of the lower chamber of the ballot box. The Chairperson shall then draw a dark line through the entry on the final signature list for those absentee voters, and write "MPP" in the left margin next to that entry, to indicate that that person has already voted by absentee ballot at a mobile polling place. If the mobile polling place voting is conducted on Election Day, this process should be repeated each time the Election Board members return with more mobile polling place absentee ballot envelopes.

(b) Centralized Mobile Polling Place Voting.

(1) The Election Board members shall visit the location of the confined voters on the mobile polling place signature list and conduct voting in accordance with the procedures specified in subpart 7.8 of these regulations, with the following exceptions:

(i) The voter shall sign the mobile polling place signature list rather than the final signature list;

(ii) If the confined person is physically unable to move to screened off area, the Election Board members will devise

an alternative means to ensure secrecy of the person's vote;

(iii) The voter shall place his absentee ballot(s) in an envelope labeled "mobile polling place absentee ballot", seal that envelope;

(iv) The voter shall then place his absentee ballot envelope into another envelope that has the voter's name, municipality and election district written on it, and seal that outer envelope; and

(v) The voter shall place the envelope in the ballot box.

(2) Each mobile polling place ballot envelope shall contain only the ballot(s) cast by one confined voter.

(3) A confined voter who can mark his ballot without assistance shall do so.

(4) At the conclusion of centralized mobile polling place voting, the Election Board members shall complete the relevant sections of the Reconciliation Form and perform the procedures for securing the ballot box specified in subpart 7.11 of these regulations, including placing a tamper-resistant seal over the slot in the lid of the lower chamber of the ballot box.

8.3 Disposition of Absentee Ballots Cast at Centralized Mobile Polling Places

Counting and tabulating of absentee ballots at centralized mobile polling places shall be conducted in accordance with part 9 of these regulations, with the following exceptions:

(a) Before opening the outer envelope on which each confined voter's name, municipality and election district is written, the Counting and Tabulation Committee members shall obtain the final signature lists that should have the entries for the confined voters who cast an absentee ballot(s).

(b) For each confined voter, the Counting and Tabulation Committee members shall compare the voter's entry on the centralized mobile polling place signature list with his entry on the final signature list. A confined voter's ballot(s) shall not be counted if-

(1) The confined voter does not have an entry on the final signature list for that voter's polling place, unless that voter has a valid Voter Identification Card for that polling place; or

(2) The final signature list shows that the confined voter cast a ballot at the regular polling place (i.e., the voter's signature is on the final signature list) or at a localized mobile polling place (i.e. there is a line drawn through the voter's entry on the final signature list and "MPP" is written in the left margin next to the entry).

(c) If either paragraph (b) (1) or (b) (2) of this subpart is applicable to a confined voter, the Counting and Tabulation Committee shall not open the outer envelope containing the voter's absentee ballot(s). Instead, the members shall write "INVALID" on the front side of the envelope, place the envelope in an envelope designated for "invalid ballots", and set the ballots aside off the counting and tabulation table in a safe location.

(d) If neither paragraph (b)(1) nor (b)(2) of this subpart is applicable to a confined voter, then the Counting and Tabulation Committee members shall open the outer envelope (but not the inner envelope) containing the voter's ballot(s) and mix the inner envelope with the other inner envelope's of confined voters.

(e) Once the procedures in paragraphs (b), (c) and (d) have been performed for each envelope containing the absentee ballot(s) of a confined voter, the Counting and Tabulation Committee members shall perform the procedures specified in paragraph (h) of subpart 9.4 of these regulations.

Part 9. Counting and Tabulation of Official Ballots

9.1 Commencement of Counting; Security

(a) The counting and tabulation of ballots shall begin upon closure of the polling place, if such activity is decentralized, or upon receipt of the first ballot box, if such activity is centralized.

(b) The only persons who may be within 100 feet of the location where the counting and tabulation process is taking place are the Counting and Tabulation Committee members, no more than one poll watcher per candidate, the candidate and such other election or law enforcement personnel as the National Election Director or National Election Commissioner shall expressly authorize.

(c) Each counting and Tabulation Committee shall count and tabulate only one ballot box at a time.

9.2 Counting Demonstration

If the counting and tabulation is centralized, the Chairperson of the centralized counting and tabulation facility shall demonstrate the procedure for counting and tabulating and tabulating the first ballot box. This demonstration can be done during election workshops, or before the counting and tabulation begins.

9.3 Candidates and Poll Watchers

(a) The entire counting and tabulation process for a given ballot box may be observed by the candidates and not more than one poll watcher per candidate.

(b) Not less than seven (7) days before Election Day, each candidate shall submit to the National Election Commissioner of the State where the candidate is running for office a written list of names of his poll watchers who will be observing the counting and tabulation of each ballot box. The National Election Commissioner shall then compile a list of poll watchers for each ballot box, and prior to the opening of the polls on Election Day, provide that list to the Counting and Tabulation Committee Chairperson for that ballot box. Only poll watchers on that list shall be allowed to observe the counting and tabulation process for that ballot box.

(c) All poll watchers shall wear nametags, obtained at their own expense, indicating their names and designating themselves as poll watchers.

(d) If a candidate or poll watcher attempts to influence or harass the Counting and Tabulation Committee, or engages in any other conduct disruptive to the counting and tabulation process, the Counting and Tabulation Committee Chairperson shall instruct the poll watcher to leave the counting and tabulation area, and shall record this decision, the name of the candidate or poll watcher, the time this decision was made and the basis for this decision in the Poll Book.

9.4 Ballot Box Clearance and Ballot Reconciliation

(a) Upon receipt of a ballot box, the Counting and Tabulation Committee shall organize the counting and tabulation area in such a way that no materials remain on the table where the counting and tabulation work will be conducted.

(b) The Chairperson of the Counting and Tabulation Committee shall open the upper chamber of the ballot box and remove the final signature list, mobile polling place signature list, supplemental signature list, unused ballots, spoiled ballots, the Poll Book and Reconciliation Form, and place these materials on the table. All other materials in the upper chamber of the ballot box shall be set aside in a safe location off the counting and tabulation table.

(c) In the Poll Book, the Counting and Tabulation Chairperson shall record the names of the Counting and Tabulation Committee members, candidates and any poll watchers (along with the names of the candidates they represent) present at the counting and tabulation location.

(d) The Counting and Tabulation Committee members shall count the number of signatures on the final signature list, the number of signatures on the mobile polling place signature list, the number of signatures on the supplemental signature list, the number of unused ballots, and the number of spoiled ballots, and record these numbers on the Reconciliation Form (see Appendix H). The members shall confirm that these numbers match the numbers recorded on the Reconciliation Form by the Election Board members. If there is a discrepancy, the Counting and Tabulation Committee shall double check that their numbers are correct.

(e) After performing the tasks specified in paragraphs (c) and (d) of this subpart, the Counting and Tabulation Committee members shall set aside the Poll Book, final signature list, mobile polling place signature list, supplemental signature list, used ballots and spoiled ballots in a safe location off the counting and tabulation table.

(f) The Counting and Tabulation Committee Chairperson shall then confirm the following:

(1) That the lower chamber of the ballot box is still locked, and record this information on the Reconciliation Form; and

(2) That the two tamper resistant seals on the ballot box (one covering the slot through which the ballots were placed during voting and one sealing the lid of the lower chamber where the lid meets the side of the ballot box) are still intact and have the same serial numbers as those recorded on the Reconciliation Form by

the Election Board members, and record this information on the Reconciliation Form.

(g) After making the confirmation in paragraph (f) of this subpart of this subpart, the Counting and Tabulation Committee Chairperson shall then unlock the lower chamber of the ballot box and place all ballots and envelopes (containing ballots cast by absentee voters at the mobile polling places) on the counting and tabulation table. The Chairperson shall ensure that no ballots are left inside the ballot box.

(h) Under the instructions of the Counting and Tabulation Chairperson, the other committee members shall separate the envelopes containing the absentee ballots from the mobile polling places from the regularly cast ballots, and then do as follows:

(1) Count the number of envelopes;

(2) Recount the envelopes if the total number of envelopes differs from the total number of signatures on the mobile polling place signature list;

(3) Record the total number of envelopes on the Reconciliation Form;

(4) Open up each envelope and, without looking at how the voter cast his ballot, determine whether the envelope contains more ballots than one voter is allowed to cast in the election;

(5) If an envelope contains more ballots than one voter is allowed to cast in the election, write “INVALID” on the front side of all ballots in the envelope, place the ballots in an envelope designated for “invalid ballots”, set the ballots aside off the counting and tabulation table in a safe location, and record the number of envelopes containing invalid absentee ballots; and

(6) If the envelope contains no more ballots than one voter is allowed to cast in the election, mix the ballots facedown with the regular ballots from the ballot box.

(i) After the Counting and Tabulation Committee members have completed the procedures under paragraph (h) of this subpart, under the instructions of the Chairperson, the members shall do as follows:

(1) Sort the ballots into piles according to the political office (i.e., proportional representation candidates vs. at-large candidates)

and – in the event of referendum – issues for which the ballots were cast.

(2) Count the number of ballots in each pile;

(3) Recount the ballots if the total number of ballots in each pile differs from the total number of signatures on the final signature list, mobile polling place signature list (taking into account any absentee voters whose ballots were rendered invalid under subparagraph (h)(5) of this subpart) and supplemental signature list; and

(4) Record the number of ballots in each pile on the Reconciliation Form, and total the number of ballots on the Reconciliation Form.

9.5 Counting and Tabulation Procedure

(a) Once the clearance and reconciliation procedures specified in subpart 9.4 of these regulations have been completed, the members can begin tallying the votes in accordance with this subpart.

(b) At least two members of the Counting and Tabulation Committee shall be the Counters and at least one member of the Counting and Tabulation committee shall be the Recorder. The Chairperson shall not be a Counter. Where there are at least four members, then the Chairperson shall not be the sole Recorder, thereby allowing the Chairperson to supervise the entire counting and tabulation process and to resolve any questions or disputes.

(c) The Counting and Tabulation Committee members shall count and tally the piles of ballots created in subparagraph (i) (1) of subpart 9.4 of these regulations one at a time. Where a pile contains ballots for a political office, the committee members shall first sort the ballots in that pile by candidate.

(d) The first Counter shall count out loud the number of votes cast for each candidate and/or issue, and announce if he determines that any of the votes are invalid. Then, the second Counter shall count out loud the number of votes cast for each candidate and/or issue, and announce if he agrees with the first Counter's determination regarding the invalidity of any vote. If the two Counters disagree on the number of votes for a candidate and/or issue, or whether a vote is invalid, then the Chairperson of the Counting and Tabulation committee shall resolve the

disagreement. This process shall continue until the votes for all ballots in the ballot box have been announced and confirmed.

(e) A ballot shall be invalid only if the intention of the voters is unclear. Such ballots shall be marked "INVALID" on the front side by the Counting and Tabulation Committee Chairperson and placed in the designated "invalid ballots" envelope.

(f) The Recorder(s) shall keep a running tally of the votes cast for each candidate and/or issue listed on the ballot, and the number of invalid ballots. After the Counters have finished announcing votes for all ballots in the ballot box, the Recorder(s) shall calculate the total number of votes cast for each candidate and/or issue, and the number of invalid ballots (including any marked "INVALID" pursuant to subparagraph (h)(5) of subpart 9.4 of these regulations). In the event of a discrepancy in the totals, the ballots shall be recounted until the discrepancy is resolved. The Chairperson shall then record the total number of valid ballots by candidate and/or issue, and invalid ballots, on the Reconciliation Form.

9.6 Incidents or Complaints in Counting and Tabulation

(a) The Counting and Tabulation Committee Chairperson shall record in the Poll Book for a ballot box any incidents that occur or any complaints made by poll watchers during the counting and tabulation of ballots in that ballot box. The Chairperson shall also permit poll watchers and candidates to write their comments concerning an irregularity or complaint in the Poll Book. If the Chairperson at a decentralized counting and tabulation location is unable to resolve an incident or complaint, to the extent feasible, the Chairperson should bring the issue to the attention of the National Election Commissioner immediately, who must try to resolve the issue expeditiously in order to allow the counting and tabulation process to continue to completion. If a Counting and Tabulation Committee Chairperson at a centralized counting and tabulation facility is unable to resolve an incident or complaint, the Chairperson shall refer the matter to the Chairperson of the centralized counting and tabulation facility for resolution of the issue or referral to the National Election Commissioner.

(b) In the case of serious disturbance inside or in the immediate vicinity of a counting and tabulation location, the Counting and Tabulation Committee Chairperson, or if counting and tabulation is centralized, the Chairperson of the centralized counting and tabulation facility, shall request immediate assistance from law enforcement. The details of the incident shall be immediately noted in the Poll Book, including the time

and circumstances of the incident, the persons involved and the resolution, if any, of the incident.

(c) In the event that a disturbance turns into a serious threat to the integrity of the counting and tabulation process or to the people inside the counting and tabulation location, the Counting and Tabulation Chairperson, of if counting and tabulation is centralized, the Chairperson of the centralized counting and tabulation facility, may decide to suspend counting and tabulation and close the counting and tabulation location until order is re-established. The Chairperson shall inform the National Election Commissioner immediately of the closure and record the event in the Poll Book, including the period during which counting and tabulation was suspended.

9.7 Security of Ballot Boxes and Election Materials After Counting and Tabulation

(a) After counting and tabulation has been completed, the Counting and Tabulation Committee members shall put all validly cast ballots, and the envelope containing invalid ballots, back into the lower chamber ballot box from which they were removed. The members shall then lock the lower chamber of the ballot box and place a tamper-resistant seal with a unique serial number over the ballot box slot through which voters inserted their ballots. The members shall also place a tamper-resistant seal with a unique serial number where the lid to the lower chamber meets the side of the ballot box, in a manner that will prevent the ballot box from being opened without removing or destroying the seal. The members shall then record the unique serial numbers printed on the tamper-resistant seals on the Reconciliation Form.

(b) The Counting and Tabulation Committee members shall put all other election materials, other than the Reconciliation Form, in the upper chamber of the ballot box, and then lock the upper chamber.

(c) The Counting the Tabulation Committee Chairperson shall deliver the ballot box and Reconciliation Form to a designated central location to be predetermined by the National Election Commissioner. Upon delivery to that designated central location, the National Election Commissioner shall remove the unused ballots, spoiled ballots, final signature list, mobile polling place signature list, supplemental signature list and Poll Book from the upper chamber of the box and store them in a secure location in the National Election Office. The remaining materials should be recycled to the extent possible for future elections.

(d) After removing the materials from the upper chamber of the ballot box, the National Election Commissioner shall place the ballot box in a locked and secured room. The key to the room where the ballot boxes are stored shall be in the sole possession of the National Election Commissioner. No person shall enter the locked and secured room containing the ballot boxes without prior written authorization of the National Election Commissioner, National Election Director or the Appellate Division of the Supreme Court of the Federated States of Micronesia.

(e) If the ballot box is from a polling place on an outer island, then the Counting and Tabulation Chairperson responsible for that ballot box shall place it in a locked and secured room, and maintain sole possession of the key to the room, until it can be delivered to the National Election Commissioner at the earliest possible time and date.

(f) If the ballot is from an overseas special polling place, or an FSM Embassy or Consulate, then the Counting and Tabulation Chairperson responsible for that ballot box shall place the ballot box in a locked and secured room and maintain sole possession of the key to the room. No person shall enter the locked and secured room containing the ballot box without prior written authorization by the National Election Director or the Appellate Division of the Supreme Court of the Federated States of Micronesia.

(g) Unless otherwise ordered by the National Election Director or the Appellate Division or the Supreme Court of the Federated States of Micronesia, the lower chamber of the ballot boxes shall remain locked and sealed, and the boxes stored in the locked and secured room at the designated central location, until the time period for challenging an election result under title 9 of the FSM Code has expired, or such later date if so ordered by the National Election Director or the Appellate Division of the Supreme Court of the Federated States of Micronesia.

(h) After the expiration of the time period established in paragraph (g) of this subpart, the National Election Commissioner, or his designees, shall empty the contents of the ballot boxes. The National Election Commissioner, or his designees, shall preserve all election materials that the National Election Director deems necessary for administrative or statistical purposes; PROVIDED, however, that no cast ballots – whether valid, spoiled or invalid – shall be preserved after the expiration of the time period established in paragraph (g) of this subpart.

(i) The National Election Commissioner, or his designee, shall shred all election materials found in the ballot boxes not preserved under paragraph (h) of this subpart.

Part 10. Announcement of Election Returns

10.1 Release of Results to Radio Stations

The National Election Commissioner shall, after receiving and reviewing election results from the Chairperson of the Counting and Tabulating Committees, release these results to the local radio stations in a manner the National Election Commissioner will designate. Accuracy in public announcements is crucial.

10.2 Partial Results

Partial results or any incomplete count during counting and tabulation shall not be announced or revealed by election officials.

PROMULGATION

Pursuant to the authority vested in me as National Election Director by section 113 and section 303 (6) of title 9 of the Code of the Federated States of Micronesia, as amended, these emergency Implementing Rules and Regulations on National Election are hereby promulgated subject to the final approval by the President.

Date:_____

Kimeuo Kimiuo
National Election Director
Federated States of Micronesia

These emergency Implementing Rules and Regulations on National Election have been reviewed by the Department of Justice and found to be legally sufficient.

Date:_____

Maketo Robert
Secretary
FSM Department of Justice

PRESIDENTIAL APPROVAL

1. Pursuant to section 102 of title 17 of the Code of the Federated States of Micronesia, I have determined that the public interest requires immediate adoption of these emergency Implementing Rules and Regulations on National Election without prior notice or hearing in view of lack of valid national election in effect, the imminence of a national election, the recent passage of P.L. No. 15-46 that introduced substantial changes to the voting procedures, and the urgency of putting in place implementing rules governing practices and procedures for registration, filing and verification of candidate nominations, requests for absentee voting and general preparations for the national election.

2. These emergency regulations shall take effect on the date of my signature. Pursuant to 17 FSMC §104(2), true copies hereof shall be filed with the Registrar of Corporations, and mailed, under registered cover, of copies thereof to the Speaker of Congress, the chairman of each standing committee of Congress, the Legislative Counsel of Congress, each of the State Governors, and Clerks of Court in the Federated States, all to be accomplished within five (5) days from signing. These emergency regulations shall remain effective for 120 days from the effective date, unless sooner revoked or superseded.

3. Similar or identical regulations shall be proposed and posted pursuant to the Administrative Procedures Act to become permanent implementing rules and regulations governing national election and to supersede these emergency regulations.

WHEREFORE, by virtue of the powers vested in me, in the Constitution and the laws of the Federated States of Micronesia, including titles 9 and 17 of the Code of the Federated States of Micronesia, I hereby adopt and promulgate these emergency regulations.

Date:_____

Manny Mori
President
Federated States of Micronesia