

**NOTICE OF EMERGENCY AND ADOPTION OF
AMENDMENTS TO THE
COMMONWEALTH ELECTION COMMISSION'S REGULATIONS
(Section 5.1, Section 5.2, Section 5.16, Section 5.28 & Section 5.29)**

EMERGENCY: The Commonwealth Election Commission ("Commission") finds that under 1 CMC § 9201 (b), the public interest and welfare requires the adoption of emergency amendments to emergency amendments to the Commission's regulations and further finds that the public interest and welfare mandates adoption of these emergency amendments upon fewer than thirty (30) days notice and that these regulations shall become effective immediately upon filing with the Registrar of Corporation, subject to the approval of the Attorney General and the concurrence of the Governor and shall remain in effect for 120 days.

REASON FOR EMERGENCY: Currently, recognized political parties are not accorded the right to a place on the ballot in any election and have its candidates identified in a columnar format. Such columnar format will ensure party recognition and therefore avoiding any confusion among the local voter population. By the columnar ballot format, the commission wishes to reduce or eliminate any such confusion and ensure that recognize parties are accorded that right pursuant to regulations. The commission intends to protect the fundamental rights of citizens in casting a ballot in any election, free from the taint of intimidation and/or fraud. With the enforcement of the 300 feet perimeter radius of a polling place, such type of action shall be eliminated and/or reduced. The commission finds the need to set forth procedures for the preliminary counting of ballots in each senatorial district. Such counting shall be conducted in an orderly fashion as prescribed in this emergency regulation.

Pursuant to Public Law 12-18, as amended, there shall be a General Election on Saturday, November 7, 2009. It is necessary to enact these regulations on an emergency basis to guarantee the regulations are in place for the general election and to provide time to educate the public before the election regarding the regulations contents.

AMENDMENT: The Commission's Regulations shall be amended to read as follows:

Section 5.1 Voting Ballots. The Commonwealth of the Northern Mariana Islands currently uses the paper ballot method of voting. Prior to the election, the Commission shall print a ballot for each voting precinct on paper which shall list all candidates who have met the requirements to be listed on the ballot. In addition to the names of the candidates, the candidates' political party affiliation, if any shall be listed on the ballot as well as the office that each candidate seeks. In the case of offices such as Municipal Council and Board of Education or Independently nominated candidates for any office with no political affiliation, shall be listed as those offices or candidates are by their very nature considered non-partisan. No independently nominated candidate who previously had a political affiliation may use that affiliation unless he/she is nominated for that office by that political party.

All candidate names shall be printed with a sufficient font size for all voters to read, but no candidate shall have a different font size than any other candidate. The ballot shall be organized by race, offices wherein the names of candidates for a particular office or offices shall be placed together identified as candidates for a particular office and the name of the candidate's political party or independent candidacy shall be placed immediately under the candidate's name on the ballot or in a columnar format for each political party or independent nomination of candidacy that is listed at the top of the ballot above the names of the nominated candidate for each office. The columns shall as nearly as possible be equal in size, except where a candidate's name requires additional space than that column will provide that additional space to accommodate the name of the candidate.

Section 5.2 Design and Non-Contestability of Ballot. The staff of the Commission shall have the primary responsibility for the design of the ballot. The Election Commission shall have final approval over the design of the ballot. After the Election Commission publishes the ballot, a specimen copy of the ballot shall be made available on Saipan, Tinian, ~~and Rota and Northern Islands~~ for public viewing upon reasonable request. The design of the ballot as approved by the Election Commission shall be final and non-contestable in any Commonwealth Court or United States Court.

Prior to the final publication of the ballot, the candidate locations (~~position or row~~) and/or columns for the political parties on the ballot for the various offices shall be designated by a number corresponding to their location (~~position and row~~). On a date designated by the Executive Director of the Commonwealth Election Commission, a representative of the political parties and the candidates (or their representatives) will select random numbers (corresponding to those ballot location numbers) out of a ~~paper bag or hat~~ container (paper bag, hat or box) in such a manner that the person choosing the number has no way of knowing which number they are choosing. The Executive Director shall conduct these drawings. The first drawing shall be for the drawing order for the political parties' columnar position on the ballot. The second drawing shall be for the political parties' columnar position on the ballot. The third drawing will be for the individual candidates locations (~~position or row~~) on the ballot where there is multiple (at least two) candidates for a particular race or office or offices from one political party for an individual office. The number chosen by each of the parties and the candidates (or their representatives) shall then correspond to those pre-designated number location on the ballot. Any person can act as a representative of more than one candidate, for instance, the Chairperson of a new or recognized political party may act as the representative for all their party's candidates provided an authorization has been issued by that candidate. Any person

can act as a representative provided that an authorization has been issued by that candidate.

Section 5.16 Voter Behavior within ~~400~~ 300 Feet of Polling Place. No voter or other person shall engage in any activity that is prohibited pursuant to Section 5.15 of these regulations. Commonwealth law provides that campaign activity ceases on Election Day from 7:00 a.m. – 7:00 p.m. within ~~400~~ 300 feet of any polling place. Any voter who engages in such prescribed activity within ~~400~~ 300 feet of the polling place which interrupts and/or interferes with the orderly procedures at the polling place shall be removed from the polling place.

Section 5.28 Preliminary Counting of Ballots. Once the polling places are closed in each senatorial district and all ballots within a senatorial district have been compiled and accounted, a preliminary counting shall commence. There shall be no less than two (2) commissioners, a representative from the Public Auditor, an Assistant Attorney General, an Election Commission staff present to conduct preliminary counting on all locally decided ballots, to include referenda and/or initiatives. Although counting system will be through an approved electronic tabulating/counting device, only preliminary results that are decided by that senatorial district shall be released. All other information shall not be released and shall remain confidential until such time that a final count on all ballots are completed and certified by the Commission.

Section 5.29 Rejected Machine Ballots, Overvote/Undervote Ballots (Preliminary Counting Only). Should the approved electronic tabulating/counting device reject any ballot in part or in its entirety or have recorded overvote, undervote, such ballot shall be placed in a locked ballot box and shall not be reviewed or touched further until such time that the Tabulation Committee convenes on the Third Senatorial District for final. Any ballot rejected for the above reason shall be reviewed by the Tabulation Committee for its disposition. All ballots once counted through the electronic tabulating/counting device shall be secured in the locked ballot box and transported to the Third Senatorial District for final counting.

AUTHORITY: The authority for the adoption and promulgation of these amendments to the Commission's Regulations is by virtue vested in the Commission pursuant to Public Law 12-18, as amended, and the Commonwealth Administrative Procedures Act, 1 CMC § 9101, et seq. These emergency regulations were approved by Commonwealth Election Commission on August 25, 2009.

Submitted by:

FRANCES M. SABLAN, Chairwoman
Commonwealth Election Commission

Date

Received by:

ESTHER S. FLEMING
Special Assistant for Administration

Date

Concurred by:

BENIGNO R. FITIAL, Governor

Date

Filed &
Recorded by:

ESTHER M. SAN NICOLAS
Commonwealth Registrar

Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the _____ day of August, 2009.

EDWARD T. BUCKINGHAM
Attorney General

Date