

REGULATIONS GOVERNING THE TAKING AND EXPORT OF ARTIFACTS

PART I—GENERAL PROVISIONS

§1. Authority

1) These regulations are promulgated by the Republic of the Marshall Islands Historic Preservation Office with the approval of the Minister of Interior and Outer Islands Affairs pursuant to §8(e) of the Historic Preservation Act 1991.

2) These regulations supercede all previous publications.

§2. Effective Date

These regulations shall come into force one (1) day after their approval by the Cabinet.

§ 3. Interpretation

In these regulations, unless the context otherwise requires,

(1) the definitions given in section 3 of the Historic Preservation Act 1991 shall apply;

(2) "Records" of a preservation activity mean the notes, other documents, photographs, forms, files, electronic records, maps, specifications, and other material describing the activity, its results, the property involved, and any data recovered from or pertaining to the property.

PART II—TAKING, CURATION AND OWNERSHIP OF ARTIFACTS

§4. Taking of Artifacts.

(1) An action taken by any person or agency in compliance with these regulations shall be understood to be permitted by the HPO, and no separate permit shall be required pursuant to this section.

(2) Any person proposing to take an artifact or artifacts from the Republic, or to destroy, remove, disturb, displace, or disfigure any cultural or historic property on the land or under the waters of the Republic, and who has not complied with the provisions of the Historic Preservation Act 1991, the "Regulations Governing Access To Prehistoric And Historic Submerged Resources 1991"; the "Regulations Governing Land Modification Activities 1991"; and the "Regulations Regarding The Conduct Of Archaeological And Anthropological Research In The Republic 1991", shall consult with the HPO well in advance of taking the proposed action, to negotiate the terms of a permit.

(3) Upon agreeing on the terms of a permit, the HPO shall submit the terms to the Council for review. The Council shall review the terms in consultation with the HPO, the applicant, and other interested parties, if any, and may modify the terms as it sees fit to ensure consistency with the requirements of these regulations and the policies set forth in § 3 of the Historic Preservation Act 1991.

(4) Upon approval by the Council, the HPO shall issue the permit, and the activity may proceed, subject to such other conditions as required by law.

(5) Should the HPO propose not to issue a permit, the applicant may appeal to the Council, which shall re-

view the appeal in consultation with the applicant, the HPO, and other interested persons, if any, guided by the requirements of this Act and the policies set forth in section 3 of the Historic Preservation Act 1991. The decision of the Council shall be final.

(6) Should the Council decline to approve the terms of a permit, the applicant may negotiate with the HPO to modify the terms and resubmit them to the Council for review and approval.

(7) Permits for the removal of artifacts from the Republic shall be issued only for purposes of cultural exchange, scientific identification, or donation to a non-profit organization whose activities have cultural significance to the Republic. Such organizations include scientific educational institutions and museums that undertake research or teaching in the Republic. Permittees must guarantee that artifacts removed, whether temporarily or permanently, will be properly curated in accordance with accepted museum and laboratory practice, except to the extent that scientific identification may require their modification. With the approval of the HPO and the Council, artifacts may be temporarily loaned or leased outside the Republic to persons that are not non-profit organizations, for purposes other than cultural exchange or scientific identification, provided the recipient guarantees their proper curation in accordance with accepted museum and laboratory practice, and submits a firm schedule for their return.

§5. Curation and scientific identification of artifacts

(1) The HPO and the Council shall work with other interested parties to develop appropriate curation facilities for artifacts and other material, records, photographs and documents relating to cultural and his-

toric properties in the Republic of the Marshall Islands. As a rule, artifacts shall be curated as close as their proper care allows to the community of their origin. Where it is not feasible to curate artifacts within the Republic, the HPO with the approval of the Council may enter into agreements with external organizations to provide curation services.

(2) Scientific investigation of artifacts and specimens involving destructive or radio-metric techniques, including, but not limited to, gassification, thin-sectioning, and neutron activation, is permitted upon approval by the Advisory Council for Historic Preservation on recommendation by the HPO.

§6. Ownership of cultural and historic properties

(1) Nothing in these regulations shall be construed to confer upon the Government of the Republic of the Marshall Islands ownership of artifacts occurring on private lands, or to forbid the maintenance of private artifact collections by residents of the Republic, provided that:

(a) the acquisition of such a collection does not involve the willful destruction, removal, disturbance, displacement, or disfigurement of any cultural or historic property on public or private land or in the waters of the the Republic; and

(b) artifacts in the collection are not removed from the Republic without a permit issued pursuant to this section.

(2) Artifacts recovered from an archaeological excavation on private land pursuant to this section or § 9 of the "Regulations Governing Land Modification Activities 1991" shall, at the request of the landowner,

be returned to the landowner after their scientific identification is complete.

(3) The information resulting from the excavation and scientific identification of such artifacts shall remain in the public domain. Such information, including all records of the excavation and artifacts, shall be curated in accordance with accepted museum and laboratory practice, and published as appropriate.

PART III—EXPORT OF ARTEFCATS

§ 7. Export of artifacts.

The export of artifacts and items of traditional material culture is permitted except for the following:

- (a) any artifact for which a permit for removal is required under § 4 of these regulations;
- (b) any item found on, at or in archaeological sites;
- (c) any item of traditional material culture over forty (40) years old;
- (d) any historical item over forty (40) years old;
- (e) any item the retention of which is considered to be in the national interest; or
- (f) human remains from archaeological or historic sites. If the scientific, medical or other study as specified in §4 (2) of the Regulations Governing The Disposition of Archaeologically Recovered Human Remains 1991 cannot be carried out in the Republic, then export may be permitted, provided that the remains be returned at the earliest possible date for reinterment under §4 (4) of these regulations.

§ 8. Violations

1) A person who violates any provision of these regulations or requirement thereunder, shall be subject to enforcement action by the Historic Preservation Office.

2) The enforcement of these regulations shall be made by in accordance with Section 20 of the Historic Preservation Act 1991.

3) Any violation of these regulations constitutes a punishable offense under Section 21 of the Historic Preservation Act 1991.