

REGULATIONS GOVERNING ACCESS TO PREHISTORIC AND HISTORIC SUBMERGED RESOURCES

PART I—GENERAL PROVISIONS

§1. Authority

- a) 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 Section 8(d) of the Historic Preservation Act 1991.
- b) 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) “Instruction” or “instructed”, depending on context, means the conveyance of Historic Preservation information to the applicant by the means of a formal lecture or an educational video.

PART II— LEGISLATIVE FINDINGS

§ 4. Legislative Findings and Statement of Policy

(1) These regulations shall be implemented in a manner that balances the preservation of cultural and historic properties against the needs for recreation and tourism. The Historic Preservation Office recognizes the following:

(a) that the identity of the Republic is provided by the cultural heritage of the Marshallese people, which consists in equal parts of the heritage of all individual atolls and islands comprising the Republic, and that it is the duty of each Marshallese citizen to encourage and promote the nation's cultural heritage for the benefit of future generations;

(b) that the cultural and historic properties and resources of the Republic, including submerged resources, form a fragile, finite and unrenovable resource of the cultural heritage of the Republic in need of preservation and proper management;

(c) that these cultural and historic properties are subject to damage and destruction, both accidental and intentional, by people visiting them, and, once they are damaged or destroyed, a part of this finite resource will be lost forever at the expense of the cultural heritage of the Republic;

(d) that, nevertheless, cultural and historic properties can in most cases coexist with recreation and tourism if the visitors abide by the regulations promulgated below.

(e) that experiences in other parts of Micronesia have shown that if not wisely managed the submerged resources can undergo rapid

deterioration in direct correlation with the number of people visiting them.

(2) The guiding principle to be used in implementation of these regulations shall be to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations.

PART III—PERMITTING PROCEDURES FOR ACCESS TO SUBMERGED RESOURCES

§ 5. Restrictions and permits of access to prehistoric and historic submerged resources.

(1) Notwithstanding the actual ownership of any submerged resource, access to prehistoric and historic submerged resources shall be permitted only to:

(a) individuals holding valid certification under these regulations; or

(b) individuals or groups of people accompanied by a person holding a valid license as an underwater cultural tour operator.

(2) Any applicant meeting the standards promulgated in accordance with Section 6 of these regulations shall be issued a permit valid initially for one year, to be renewable annually, upon payment in accordance with the following fee schedule:

(a) fifty dollars (\$50.00) annually for an individual; and

(b) one hundred and fifty dollars (\$150.00) annually for an underwater cultural tour operator.

§ 6. Standards for the certification of individuals and for the licensing of underwater cultural tour operators.

(1) The following minimum standards shall apply to the certification of individuals.

(a) The individual has an understanding of the need for historic preservation and the preservation of the cultural and historic properties of the Republic;

(b) The individual understands the relevant sections of the Historic Preservation Act 1991 and these regulations;

(c) The individual has a specific understanding of the fragility of underwater resources and understands that no such resource or fraction thereof may be damaged, impaired or removed.

(d) The individual undertakes to be responsible for himself and the dive partner or dive partners.

(e) Upon initial certification, as well as for each renewal the applicant signs an affidavit shown in Annex A.

(2) The following minimum standards shall apply to the certification of tour operators.

(a) The tour operator has an understanding of the need for historic preservation and the preservation of the cultural and historic properties of the Republic;

(b) The tour operator understands the relevant sections of the Historic Preservation Act 1991 and these regulations;

(c) The tour operator undertakes to inform the dive partners whom the tour operator accompanies about

- (i) the need for historic preservation and the preservation of the cultural and historic properties of the Republic; and
 - (ii) the relevant sections of the Historic Preservation Act 1991 and these regulations
 - (iii) the fragility of underwater resources and that no such resource or portion thereof may be damaged, impaired or removed.
- (d) The tour operator undertakes to be responsible for himself and all dive partners whom the tour operator accompanies
- (e) Upon initial certification, as well as for each renewal the applicant signs an affidavit shown in Annex B.

§ 7. HPO to administer certification

- (1) The HPO shall be the permitting agency and shall keep a register of all certifications and applications for certifications.
- (2) The HPO shall provide the instruction required under section 6 of these regulations.

§ 8. Local Government Councils may impose further restrictions.

Any local government may, at its discretion, impose restrictions and permitting procedures for the submerged resources within its jurisdiction that are more restrictive but not less restrictive than those promulgated by the HPO.

§ 9. Cooperation of diving instructors and diving equipment operators required.

- (1) Diving instructors residing or practising in the Republic of the Marshall Islands, or persons operating

equipment used to fill SCUBA tanks for rental to persons other than commercial fishermen are required

- (a) to post these regulations in a visible, accessible place; and
- (b) to inform customers of these regulations.

§ 10. Violations.

The penalties as permitted under section 21 of the Historic Preservation Act 1991 shall apply.

Annex A:

Affidavit for Individual Certification

I (name inserted), resident of (place inserted) holding a valid diving certification (name of organisation and number inserted), herewith certify that

- 1) I have the "Regulations Governing The Taking And Export Of Artefacts 1991" and the "Regulations Governing Access To Prehistoric And Historic Submerged Resources 1991".
- 2) I have been instructed by HPO staff on the need for historic preservation and the importance of preservation of the cultural and historic properties of the Republic of the Marshall Islands.
- 3) I understand the fragility of underwater resources and understands that no such resource or fraction thereof may be damaged, impaired or removed.
- 4) I will not dive on a submerged resource with a partner not certified in accordance of these regulations
- 5) I will abide by the provisions of the "Regulations Governing Access To Prehistoric And Historic Submerged Resources 1991".
- 6) I undertake to do my best to restrain my dive partner from violating the provisions of these regulations.

(Signature and Date)

I (name and title inserted), employee of the HPO, herewith certify that (name of applicant inserted) has been instructed

on the need for historic preservation and the importance of preservation of the cultural and historic properties of the Republic of the Marshall Islands. The "Regulations Governing The Taking And Export Of Artefacts 1991" and the "Regulations Governing Access To Prehistoric And Historic Submerged Resources 1991" have been explained to the applicant.

(Signature and Date)

Permit N°. (number inserted) has been issued on this date by authority of the HPO.

(Signature and Date)

Annex B:

Affidavit for Certification of a Tour Operator

I (name inserted), resident of (place inserted), being a dive instructor/tour operator (delete inappropriate) of (name of company inserted), holding a valid diving certification (name of organisation and number inserted), herewith certify that

1) I have understood the "Regulations Governing The Taking And Export Of Artefacts 1991" and the "Regulations Governing Access To Prehistoric And Historic Submerged Resources 1991".

2) I have been instructed by HPO staff on the need for historic preservation and the importance of preservation of the cultural and historic properties of the Republic of the Marshall Islands.

(1) I undertake to inform the dive partners whom I accompany on

(a) the need for historic preservation and the preservation of the cultural and historic properties of the Republic;

(b) the relevant sections of the Historic Preservation Act 1991 and these regulations; and

(c) the fragility of underwater resources and that no such resource or portion thereof may be damaged, impaired or removed.

4) I will abide by the provisions of the "Regulations Governing Access To Prehistoric And Historic Submerged Resources 1991".

5) I undertake to do my best to restrain my dive partner from violating the provisions of these regulations.

(Signature and Date)

I (name and title inserted), employee of the HPO, herewith certify that (name of applicant inserted) has been instructed on the need for historic preservation and the importance of preservation of the cultural and historic properties of the Republic of the Marshall Islands. The "Regulations Governing The Taking And Export Of Artefacts 1991" and the "Regulations Governing Access To Prehistoric And Historic Submerged Resources 1991" have been explained to the applicant.

(Signature and Date)

Permit N°. (number inserted) has been issued on this date by authority of the HPO.

(Signature and Date)