# REGULATIONS GOVERNING THE CONDUCT OF ARCHAEOLOGICAL AND ANTHROPOLOGICAL RESEARCH IN THE MARSHALL ISLANDS

## PART I - GENERAL PROVISIONS

***§1. Authority***

1. These regulations are promulgated by the Republic of the Marshall Islands Historic Preservations Office with the approval of the Minister of Interior and Outer Islands Affairs pursuant to 8(f) the Historic Preservation Act 1991.
2. These regulations supersede all previous publications.

***§2. Effective Date***

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

***§3. Interpretation***

In these regulations, unless the context otherwise requires, the definitions given in section 3 of the Historic Preservation Act 1991 shall apply:

1. "Archaeologist" means an individual whose training and experience, including receipt of a degree of Master of Arts, Master of Science, or Doctor of Philosophy, qualifies that person for the professional practice of architecture as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.

2. "Architect" means an individual whose training and experience, including receipt of a postgraduate degree of Master of Arts Master of Science or Doctor of Philosophy, qualifies that person for the professional practice of architectural history as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.

3. "Architectural historian" means an individual whose training and experience, including receipt of a postgraduate degree of Master of Arts, Master of Science or Doctor of Philosophy, qualifies that person for the professional practice of architectural history as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.

4. "Cultural anthropologist" means an individual whose training and experience conform with standards set out in **§5** of these regulations.

5. "Historian" means an individual whose training and experience conform with standards set out in **§6** of these regulations.
    a. "direct impacts", which are caused by a given action and occur at the same time and place; and

6. "Linguist" means an individual whose training and experience, including receipt of a postgraduate degree of Master of Arts, Master of Science or Doctor of Philosophy, qualifies that person for

professional practice of linguistics as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.

7. "Physical anthropologist" means an individual whose training and experience, including receipt of a postgraduate degree of Master of Arts, Master of Science or Doctor of Philosophy, qualifies that person for the professional practice of linguistics as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.

8. "Interpretation" means making understandable to the general public a cultural and historic property or the information and artifacts it contains, for purposes of education and enlightenment.
9. "Project" means any structure, use, development or other activity subject to review under these regulations, or where the context so indicates, a preservation activity carried out pursuant to these regulations.

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

## PART II - REQUIRED QUALIFICATIONS

***§4. Qualifications required for an archaeologist.***

1. Any archaeologist requesting to work or conduct research in the Republic of the Marshall Islands needs to conform to the following standards.

2. Archaeologists in supervisory positions
    a. Minimum requirements for any archaeologist in supervisory positions are
        i. the receipt of a postgraduate degree of Master of Arts, Master of Science or Doctor of Philosophy in archaeology, historical archaeology or prehistory, which qualifies that person for the professional practice of archaeology as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.
        ii. One year full-time professional experience in
            a. archaeological administration; and
            b. archaeological resource management
        iii. Two years full-time professional experience in
            a. archaeological research and analysis;
            b. archaeological fieldwork including survey, excavation and laboratory analysis.
        iv. One year of full-time experience in a supervisory position in the study of archaeological resources of the historic or prehistoric period.
        v. Documented ability to carry out research to completion

    b. Archaeologists in supervisory positions are:
        i. the Chief Archaeologist in the Republic of the Marshall Islands;

ii. the principal investigator on a contract bid under §11 of these regulations;
iii. the principal investigator on archaeological research under §10 of these regulations

3. Staff Archaeologists
    a. Minimum requirements for staff archaeologists are
        i. the receipt of a postgraduate degree of Bachelor of Arts, Bachelor or Science in archaeology, historical archaeology or prehistory, which qualifies that person for the professional practice of archaeology as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.
        ii. One half year of full-time professional experience or equivalent specialized training in
            a. archaeological administration; and
            b. archaeological resource management.
        iii. One year of full-time professional experience in
            a. archaeological research and analysis;
            b. archaeological fieldwork including survey, excavation and laboratory analysis.
        iv. four months of full-time experience in a supervisory position in the study of archaeological resources of the historic or prehistoric period.
        v. Documented ability to carry out research to completion

    b. Staff archaeologists are:
        i. Archaeologists on staff of the Cultural and Historic Preservation Office;
        ii. Archaeologists on staff of principal of investigators on a contract bid under § 11 of these regulations;
        iii. Archaeologists on staff of principal investigators on archaeological research under § 10 of these regulations

4. Notwithstanding subsection (1) of this section, archaeological research may be conducted under the supervision of a principal archaeologist, as governed by sections 10(1)(b) and 10(1)(c).
5. Notwithstanding subsections (3)(a)(ii) to 3(a)(v) of this section, citizens of the Republic of the Marshall Islands may on a case by case basis be employed as staff archaeologists if only parts of the requirements set out in subsections (3)(a)(ii) to 3(a)(v) are met as determined by the council.

***§5. Qualifications required for an anthropologist.***

1. Any anthropologist requesting to work or conduct research in the Republic of the Marshall Islands needs to conform to the following standards.
2. Anthropologists in supervisory positions.
    a. Minimum requirements for any anthropologist in supervisory positions are
        i. the receipt of a postgraduate degree of Master of Arts, or doctor of Philosophy in cultural, social or behavioral anthropology, which qualifies that person for the professional practice of anthropology as recognized in the academic institutions of the United States, Japan, Australia, New Zealand. Canada, or the countries of Western Europe.

ii. One year of full-time professional experience or equivalent specialized training in
    a. Cultural resource management; and
    b. Anthropological and ethnographic collections management, including but not restricted to traditional material culture, visual media, audio media and textual and pictographic records.
iii. Two years of full-time professional experience in
    a. anthropological research and analysis;
    b. anthropological fieldwork.
iv. One year of full time experience in a supervisory position as an anthropologist.
v. Documented ability to carry out research to completion

b. Anthropologists in supervisory positions are:
    i. the Chief Anthropologist in the Republic of the Marshall Islands;
    ii. the principal investigator on a contract bid under §11 of these regulations;
    iii. the principal investigator on anthropological research under §10 of these regulations.

3. Staff Anthropologists.
    a. Minimum requirements for staff anthropologists are
        i. the receipt of a postgraduate degree of Bachelor or Science in cultural, social or behavioural anthropology, which qualifies that person for the professional practice of anthropology as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.
        ii. One half year of full-time professional experience or equivalent specialized training in
            a. Cultural resource management; and
            b. Anthropological and ethnographic collections management, including but not restricted to traditional material cultural, visual media, audio media and textual and pictographic records.
        iii. One year of full-time professional experience in
            a. Anthropological research and analysis;
            b. Anthropological fieldwork
        iv. Documented ability to carry out research to completion.
    b. Staff anthropologists are:
        i. Anthropologists on staff of the Cultural and Historic Preservation Office;
        ii. Anthropologists on staff of investigators on a contract bid under § 11 of these regulations;
        iii. Anthropologists on staff of principal investigators on anthropological research under § 10 of these regulations.

4. Notwithstanding subsection (1) of this section, anthropological research can be conducted under the supervision of a principal anthropologist, as governed by sections 10(2)(b) and 10(2)(c).
5. Notwithstanding subsection (3)(a)(ii) to (3)(a)(v) of this section , citizens of the Republic of the Marshall Islands may on a case by case basis be employed as staff anthropologists if only parts of the requirements set out in subsections (3)(a)(ii) to (3)(a)(v) are met as determined by the council.

***§6. Qualifications required for Historian***

1. Any historian requesting to be employed by the Cultural and Historic Preservation Office must conform to the following standards.

2. Historians in supervisory positions.
    a. Minimum requirements for any historian in supervisory positions are
        i. the receipt of a postgraduate degree of Master of Arts, Doctor of Philosophy in history, which qualifies that person for the professional practice of anthropology as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.
        ii. At least two years experience of full-time professional experience in research, writing or interpretation at an academic institution, historic organization or agency, museum or other professional institution;
        iii. Substantial contribution through research and publication to the knowledge in the field of Pacific History.
        iv. One year of full-time experience in a supervisory position in the study of as historian.
        v. Documented ability to carry out research to completion

3. Staff historian
    a. Minimum requirements for staff historians are
        i. the receipt of a postgraduate degree of Bachelor of Arts, Bachelor or Science in history, which qualifies that for the professional practice of history as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada or the countries of Western Europe.
        ii. At least half a year full-time professional experience in research, writing or interpretation at an academic institution, historic organisation or agency museum or other professional institution;
        iii. Substantial contribution through research and publication to the knowledge in the field of Pacific History.
        iv. Documented ability to carry out research to completion.

4. Notwithstanding subsections (3)(a)(ii) to (3)(a)(iv) of this section, citizens of the Republic of the Marshall Islands may on a case by case basis be employed as staff historians if only parts of the requirements set out in subsections (3)(a)(ii) to (3)(a)(iv) are met as determined by the council.

***§7. Qualifications required for an Architect or Architectural Historian.***

1. Any Architect or Architectural Historian requesting to be employed by the Cultural and Historic Preservation Office must conform to the following standards.

2. Architects or Architectural Historians in supervisory positions.
    a. Minimum requirements for any Architect or Architectural Historian in supervisory positions are
        i. the receipt of a postgraduate degree of Master of Arts, or Doctor of Philosophy in architecture or architectural history, which qualifies that person for the professional

practice of architecture or architectural history as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.

ii. At least two years of full-time professional experience in research, writing or interpretation at an academic institution, or other professional institution;

iii. substantial contribution through research and publication to the knowledge in the field of traditional, European and Asian architecture in the islands of the Pacific Ocean.

iv. one year of full-time experience in a supervisory position in the study of as a historian.

v. Documented ability to carry out research to completion.

3. Staff Architects or Staff Architectural Historians.
    a. Minimum requirements for staff architects or staff architectural historians are
        i. the receipt of a postgraduate degree of Bachelor of Arts, Bachelor or Science in architecture or architectural history, which qualifies that person for the professional practice of architecture or architectural history as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of Western Europe.
        ii. At least half a year of full time professional experience in research, writing or interpretation at an academic institution, or historic organisation or agency, museum or other professional institution;
        iii. Substantial contribution through research and publication to the knowledge in the field of traditionals, European and Asian architecture in the islands of the Pacific Ocean.
        iv. Documented ability to carry out to completion.

4. Notwithstanding subsections (3)(a)(ii) to (3)(a)(iv) of this section, citizens of the Republic of the Marshall Islands may on a case by case basis be employed as staff historians if only parts of the requirements set out in subsections (3)(a)(ii) to (3)(a)(iv) are met as determined by the council.

## PART III - ARCHAEOLOGICAL AND ANTHROPOLOGICAL RESEARCH

***§8. Archaeological Investigations.***

1. Archaeological sites form a limited and nonrenewable resource. It is recognized that any archaeological investigation other than survey potentially results in an impairment of this resource. Therefore all archaeological research other than survey is prohibited, unless the property to be excavated
    a. Is threatened with destruction or damage through natural or human forces; or
    b. Is demonstrated to advance the knowledge of the archaeology of the Marshall Islands in such a manner that results likely to be obtained will advance the management or interpretation of the other resources; and

c. Is demonstrated to be more appropriate for the study proposed than are any known available properties that are threatened with destruction or damage.

2. Permits for archaeological excavation, may be issued only if the following minimum standards are met:
    a. The excavation shall be supervised by an archaeologist who is qualified in accordance with section 4 of these regulations;
    b. The excavation shall be undertaken in a manner consistent with the Standards of Research Performance of the Society of Professional Archaeologists;
    c. The permission of the person owning or controlling the land involved, and any required land use or environmental permits, have been obtained, or have been applied for and are pending issuance of the permit;
    d. The applicant's excavation plan is sensitive to any archaeological cultural or historic values the property may possess;
    e. Analysis and curation of the specimens shall occur at an institution or other entity meeting Institutional Standards of the Society of Professional Archaeologists, unless the excavation is of such limited scope that a full range of curation facilities is not required;
    f. The excavation is designed to address significant research topics in the natural or social sciences or the humanities, or to provide data that will advance the purposes of the Marshall Islands Cultural and Historic Preservation Plan or a local cultural and historic preservation plan;
    g. An appropriate schedule is provided for the submission of a final and copies of primary field data;
    h. The property to be excavated fulfils the criteria set out in subsection (1) of this section;
    i. The applicant agrees to the requirements set out in §10 of these regulations.

3. The treatment of recovered artifacts and specimens shall be governed by the Regulations Governing The Taking And Export of Artifacts 1991; and
4. The treatment of human remains shall be governed by the Regulations Governing The Disposition Of Archaeologically Recovered Human Remains 1991.

***§9. Anthropological investigations.***

Permits for the anthropological research may be issued only if the following minimum standards are met:

1. The research will be conducted by an anthropologist who has demonstrated pertinent experience conducting anthropological field research;
2. The applicant certifies that he will be guided by the Professional Ethics of the American Anthropological Association;
3. The permission of the person owning or controlling the land involved, and any required land use or environmental permits, have been obtained, or have been applied for and are pending issuance of the permit;
4. The applicant's research plan is sensitive to any archaeological, cultural or historic values the research topic may possess;
5. Analysis and curation of specimens of traditional and modern material culture collected during the research shall occur at an institution or other entity meeting the Institutional Standards of the

Society of Professional Archaeologists, unless the collection is of such limited scope that a full range of curation facilities is not required;

6. The study is designed to address significant research topics in the natural or social sciences or the humanities, or to provide data that will advance the purposes of the Marshall Islands Cultural and Historic Preservation Plan or a local cultural and historic preservation plan;
7. The applicant provides an appropriate schedule for the submission of a final report and copies of primary field data, and for the disposition of recovered specimens; and
8. The applicant agrees to the requirements set out in §10 of these regulations.

***§10. Schedule Governing the Conduct of Anthropological and Archaeological Research.***

1. Any applicant for an archaeological research project shall meet and agree to the following requirements in addition to the requirements imposed under **§8** of these regulations;
    a. The principal investigator for archaeological research must conform with the standards set forth in Section 4(2) of these regulations;
    b. If part of the research is to be conducted by a person holding a Bachelor of Art or Bachelor of Sciences but not Master of Arts or Master of Science in the above fields, the presence of the principal investigator is required for at least seventy-five percent (75%) of the time;
    c. If part of the research is to be conducted by a person not holding at least a Bachelor of Arts or Bachelor of Science in the above fields, the presence of the principal investigator is required for the entire period;
    d. If the field work to be undertaken is largely of an ethnographic or anthropological nature, the full-time presence of the principal investigator may be reduced to the discretion of the council, provided that the principal investigator shall be present for at seventy-five percent (75%) of any archaeology component in the project; and
    e. Prior consent of the atoll community or communities studied or worked in has been obtained.

2. Any applicant for an anthropological research project shall meet and agree to the following requirements imposed under §9 of these regulations:
    a. The principal investigator for cultural anthropological research must conform with the standards set forth in Section 5(2) of these regulations;
    b. If part of the research is to be conducted by a person holding a Bachelor of Arts or Bachelor of Sciences but not Master of Arts or Master of Science in the above fields, the presence of the principal investigator is required for at least seventy-five percent (75%) of the time;
    c. If the part of the fieldwork includes archaeological research, subsection (1)(d) of this section applies; and
    d. Prior consent of the atoll community or communities studied or worked in has been obtained

3. Any researcher applying for an archaeological or anthropological research permit under §8 or §9 of these regulations shall furnish the following documents and undertakings:
    a. Upon application, the applicant shall submit the following:
        i. a detailed research proposal
        ii. documentation that the applicant is financially capable of undertaking the research;

iii. complete curriculum vitae with list of publications and photostats of any documents relating to degrees; and
iv. letters from two referees documenting the applicant's good academic standing and bona fide status, as well as stating the applicant's ability to conduct the proposed field work.

b. The applicant shall sign that the applicant:
i. will report regularly to the HPO;
ii. will submit an interim report no later than four weeks after the end of field work, and that the applicant is prepared, if so asked, to report orally to the Council. This oral report shall not be in lieu of a written interim report;
iii. will submit two copies of the final research report and of any other report and publication deriving from the research to the Council; and
iv. will hand over the originals of all field notes and plans to the HPO after completion of the research. If the notes are needed for a period exceeding one (1) year after the completion of field work, the applicant shall submit photostats; however, submission of the photostats shall not be in lieu of submission of the originals after the completion of the research. The applicant may impose a temporary ban on these photostats and originals, which is governed by §13 of these regulations.

c. If the application is approved by the Council, the successful applicant shall pay a deposit of US $1000, which shall be deposited into a separate savings account at a local bank, with the following specifications:
i. the deposit and any accrued interest is to be returned once the applicant had submitted two copies of his research to the Council. This deposit does not constitute a research fee but is required to ensure that researcher will comply with the obligation to submit copies of their reports and theses; and
ii. if the researcher has not submitted copies of the report, thesis or publication within a reasonable period of time after the publication has appeared or the thesis has been accepted, then the Republic shall be entitled to utilize the money to obtain copies of the research . The remaining money shall be returned to the applicant.

4. Upon receipt of the two copies of the completed research, the Council shall make one copy immediately available to the National Archives. The other copy may be circulated among the members of the Council and shall finally reside in the office of the HPO.
5. Notwithstanding subsections (1) and (2) of this section, citizens of the Republic of the Marshall Islands acting on behalf of the Cultural and Historic Preservation Office, may on a case by case basis, as determined by the council, be permitted to conduct archaeological or anthropological research if only parts of the requirements set out in subsections (1) and (2) of the section are met.
6. Citizens of the Republic of the Marshall Islands, or persons acting on behalf of the Cultural and Historic Preservation Office, may on a case by case basis, as determined by the council, be permitted to conduct archaeological or anthropological research without providing a $1000 bond as required under subsection (3)(c) of this section.

## PART IV: ARCHAEOLOGICAL AND ANTHROPOLOGICAL CONTRACT WORK

***§11. Contractors License required***

1. Any archaeologist or anthropologist, not on permanent employ by the HPO and intending to work in the Republic needs to hold a valid contractors license as defined in section 12, if
    a. The work is part of a permitting process required under the "Regulations Governing Land Modification Activities 1991"; or
    b. Determined on a case-by-case basis by the HPO.

***§12. Contractors License for archaeologists and anthro***

1. Any archaeologist or anthropologist, applying for a contractors license shall be granted such license, if the following minimum standards are fulfilled
    a. The archaeologist or anthropologist complies with ***§ 4(2) or § 5(2),*** whichever is applicable;
    b. Complete curriculum vitae with list of publications and photostats of any documents relation to degrees are submitted;
    c. Copies of five (5) different final reports of previously completed projects are submitted;
    d. Addresses of at least two customers for whom the contractor has worked in a professional capacity are furnished;
    e. The contractor provides an affidavit that originals all fieldnotes, photographs and plans will be surrendered to the HPO for archiving after completion of the contract;
    f. The application fee of US $100.00
2. The contractor's license shall be renewed annually. Any archaeologist or anthropologist, applying for the renewal of a contractors license shall be granted such renewal, if the following minimum standards are fulfilled
    a. The contractor has been previously licensed as an archaeological or anthropological contractor in the Republic of the Marshall Islands;
    b. The previous valid license is not older than 5 years
    c. The renewal fee of US$ 100.00 has been paid and
    d. None of the clauses stated in subsection (4) of this section apply.
3. If the contractor has not held a valid contractors license for 5 years, the contractor is required to apply as specified in subsection (1) of this section.
4. Any contractors license may be revoked or temporarily suspended, and a renewal of a contractors license may be denied by the HPO, if the contractor
    a. Is found in repeated breach of contract;
    b. In breach of ethical conduct as specified by the Society of Professional Archaeologists;
    c. The contractor has more than one uncompleted project outstanding beyond the project's deadline; or
    d. The contractor has not surrendered originals or fieldnotes to the HPO.
5. The contractor has the right to appeal the HPO's decision to the Council. The Council's decision shall be final.

**PART V: OWNERSHIP AND CONTROL OVER FIELDNOTES AND RESEARCH RESULTS**

***§13. Schedule Governing the Temporary Ban on Fieldnotes Deposited with the HPO.***

1. Any researcher, required under §10(3)(b)(iv) of these regulations to hand over originals or photostats of field notes and plans to the HPO, may impose a temporary ban on these documents, if the researcher believes that
    a. Outside researchers may make use of the data before the researcher has had adequate time to analyse and publish the results;
    b. The fieldnotes need annotation without which the understanding of the notes may be unduly biased;
    c. If the information contained in these fieldnotes is sensitive with regard to the informants wither
        i. because the informants divulged traditionally restricted knowledge with the understanding that further dissemination of that knowledge be restricted;
        ii. because the information container on the informants or their statements reveals substantial aspects of their private lives not common to others.

2. If a temporary ban is imposed, then
    a. The information shall be placed in a sealed envelope, signed by the HPO. The envelope shall be kept in a locked cabinet;
    b. If the information thus lodged relates to archaeological sites, then
        i. the HPO shall not make available that information to persons outside of the HPO;
        ii. the HPO shall make available that information to members of the HPO only for Historic Preservation management purposes on a strict need-to-know basis. Member of the HPO cogniscant of the contents of the envelopes shall not divulge the information to persons not indoctrinated;
    c. If the Information thus lodged relates to anthropological observations, then
        i. the envelope shall not be opened and the HPO shall not make available that information to any person, unless provided with written authorisation from the researcher;
    d. The HPO shall keep an accurate log to document access to the envelope, documenting every separate access;
    e. the envelope shall be resealed and re-signed every time it has been opened.

3. Unless specified, the information contained in the envelope shall become public domain material five (5) years after deposition.
4. Notwithstanding subsection (3), the researcher may impose a longer ban on the material, not to exceed thirty (30) years, if the information contained conforms with subsection (1)(c) of this section.
5. if a ban longer than five (5) years is imposed, then the ban shall be reviewed every five (5) years in consultation with the researcher.
    a. To facilitate this, the researcher shall inform the HPO of any address changes and the HPO shall keep an accurate log of the researcher's address changes to be kept with the envelope.
    b. In case of the researcher's death the ban shall be reviewed every five (5) years by the HPO and shall be renewed upon his or her discretion.

6. any citizen of the Republic of the Marshall Islands may, on his or her discretion , lodge sensitive cultural information, on any media, with the Cultural and Historic Preservation Office for safekeeping.

a. The information shall be placed in a sealed envelope, signed by the HPO and the person lodging the material. The envelope shall be kept in a locked cabinet;
b. The envelope shall not open and the HPO shall not make available that information to any person, unless provided with written authorisation from the person lodging the material;
c. The person lodging the material, or any person authorised in writing by the person originally lodging the material shall be provided with free access to the envelope;
d. The person lodging the material may at his or her discretion withdraw may at his or her discretion withdraw the envelope at any time;
e. The HPO shall keep an accurate log to document access to the envelope, documenting every separate access;
f. The envelope shall be resealed and re-signed every time it has been opened.

***§14. Violations***

1. A person who violates any provision of these regulations or requirements thereunder, shall be subject to fines under section §21 of the Historic Preservation Act 1991.
2. Notwithstanding fines to be imposed under section 21 of the Historic Preservation Act 1991, any employee who violates §12 (2)(b), (c) or (d) of these regulations shall be subject to disciplinary action under the Public Service Regulations 1984.