

## **Comprehensive Management Plan (CMP)**

### **CR – 6 : Develop and adopt guidelines for the visitation and use of ancient shrines**

#### **Policy for CR-6**

Visitation and use of ancient shrines for Hawaiian Cultural observances is allowed on Maunakea lands managed, on a case by case basis, by the University of Hawaii provided the use does not violate Chapter §6E of the Hawaii Revised Statutes. The Office of Maunakea Management shall be notified a week prior to any such visit. Notification can be in writing or via email. See Office of Maunakea Management website for contact information. If there is a group of more than 10 people who wish to visit an ancient shrine they must also submit a Special Request form found on the Mauna Kea Visitor's Center website at <http://www.ifa.hawaii.edu/info/vis/visiting-maunakea/research-group-visits-and-military/group-visits.html> in addition to the notification of the Office of Mauna Kea Management.

#### ***Supporting Documentation***

##### **Hawaii State Constitution**

The Hawaii State Constitution states in Article XII, Section 7 that:

“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights. [Add Const Con 1978 and election Nov 7, 1978]”

While traditional and cultural rights are recognized as an important aspect of our political heritage the Hawaii State Constitution also tasks the state with the regulation of these rights.

##### **Hawaii Revised Statutes**

§6E-11 Civil and administrative violations.

- (a) It shall be a civil and administrative violation for any person to take, appropriate, excavate, injure, destroy, or alter any historic property or aviation artifact located upon the private lands of any owner thereof without the owner's written permission being first obtained. It shall be a civil and administrative violation for any person to take, appropriate, excavate, injure, destroy, or alter any historic property or aviation artifact located upon lands

owned or controlled by the State or any of its political subdivisions, except as permitted by the department, or to knowingly violate the conditions set forth in an approved mitigation plan that includes monitoring and preservation plans.

- (b) It shall be a civil and administrative violation for any person to knowingly take, appropriate, excavate, injure, destroy, or alter any burial site, or the contents thereof, located on private lands or lands owned or controlled by the State or any of its political subdivisions, except as permitted by the department, to knowingly fail to re-inter human remains discovered on the lands in a reasonable period of time as determined by the department, or to knowingly violate the conditions set forth in an approved mitigation plan that includes monitoring and preservation plans.
- (c) It shall be a civil and administrative violation for any person to take, appropriate, excavate, injure, destroy, or alter any historic property or burial site during the course of land development or land alteration activities to which section §6E-42 applies, without obtaining the required approval.
- (d) It shall be a civil and administrative violation for any person who inadvertently discovers a burial site to fail to stop work in the immediate area and report the discovery, as required by section §6E-43.6.
- (e) It shall be a civil and administrative violation for any person to knowingly glue together any human skeletal remains, label any human skeletal remains with any type of marking pen, or conduct any tests that destroy human skeletal remains, as defined in section §6E-2, except as permitted by the department.
- (f) Any person who violates this section shall be fined not more than \$10,000 for each separate violation. If the violator directly or indirectly has caused the loss of, or damage to, any historic property or burial site, the violator shall be fined an additional amount determined by the environmental court or an administrative adjudicative authority to be equivalent to the value of the lost or damaged historic property or burial site. Each day of continued violation of this provision shall constitute a distinct and separate violation for which the violator may be punished. Equipment used by a violator for the taking, appropriation, excavation, injury, destruction, or alteration of any historic property or burial site, or for the transportation of the violator to or from the historic property or burial site, shall be subject to seizure and disposition by the State without compensation to its owner or owners.
- (g) Any person who knowingly violates this chapter with respect to burial sites shall also be prohibited from participating in the construction of any state or county funded project for ten years.

- (h) Nothing in this section shall apply to land altering activities relating to family burial plots under section 441-5.5.
- (i) The civil and administrative penalties imposed pursuant to this chapter shall be in addition to the criminal penalties provided by this chapter and any other penalties that may be imposed pursuant to law. [L 1976, c 104, pt of §2; gen ch 1985; am L 1990, c 306, §8; am L 1992, c 113, §3; am L 1996, c 97, §8; am L 2003, c 104, §3; am L 2005, c 128, §3; am L 2006, c 38, §1 and c 45, §2

## **Department of Land and Natural Resources Administrative Rules**

### ***Natural Areas Reserve***

HAR 13-209-4, prohibited activities within the Natural Area Reserve

The following activities are prohibited within a natural area reserve:

- (1) To remove, injure, or kill any form of plant or animal life, except game mammals and birds hunted according to department rules;
- (2) To introduce any form of plant or animal life, except dogs when permitted by hunting rules of the department and service animals accompanying their handlers;
- (3) To remove, damage, or disturb any geological or paleontological features or substances;
- (4) To remove, damage, or disturb any historic or prehistoric remains;
- (5) To remove, damage, or disturb any notice, marker, or structure;
- (6) To engage in any construction or improvement;

### ***Forest Reserve***

HAR 13-104-4, preservation of public property and resources.

The following activities are prohibited within a forest reserve:

- (1) To remove, injure, or kill any form of plant or animal life, either in whole or in part, except as authorized by the Board or authorized representative or as provided by rules of the Board;
- (2) To remove, damage, or disturb any natural feature or resource (e.g. natural stream beds) except as authorized by the board or its authorized representative;
- (3) To remove, damage, or disturb any historic or prehistoric remains;

- (4) To remove, damage, or disturb any notice, marker, or structure;
- (5) To enter, occupy, or use any building, structure, facility, motorized vehicle, machine, equipment, or tool within or on forest reserve except as authorized by the board or its representative;
- (6) To engage in any construction or improvement except as authorized by the board.
- (7) To sell, peddle, solicit, or offer for sale any merchandise or service except with written authorization from the board.
- (8) To distribute or post handbills, circulars, or other notices. Unofficial compilation:
- (9) To introduce any plant or animal except as approved by the Board.
- (10) To enter or remain within forest reserves when under the influence of alcohol, narcotics, or drugs, to a degree that may endanger oneself or endanger or cause annoyance to other persons or property. The use or possession of narcotics, drugs or alcohol within forest reserves is prohibited. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §§183- 2, 183-17) §