



The COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
100 Cambridge Street, Suite 900, Boston, MA 02114

Tel. (617) 626-1200

Web Site: <https://www.mass.gov/orgs/board-of-underwater-archaeological-resources>

POLICY GUIDANCE ON THE DISCOVERY OF UNANTICIPATED HUMAN REMAINS

Introduction

The Massachusetts Board of Underwater Archaeological Resources (BUAR) is the state agency charged with the identification, preservation and protection of underwater archaeological resources. BUAR recognizes that despite intensive background research, remote sensing research, and field investigations, it is possible that human remains may still be discovered during the course of permitted and non-permitted activities on or below state bottom lands, particularly during excavation. For a concise description of your responsibilities under state law, you should visit the Massachusetts Historical Commission (MHC) website and read the following link regarding the treatment of human remains when accidentally discovered: <https://www.sec.state.ma.us/mhc/mhcpdf/knowhow4.pdf>. BUAR procedures that should be followed in the event that suspected human remains are inadvertently discovered during the permitted and non-permitted activities are outlined below (in accordance with the applicable sections of Massachusetts General laws listed in this policy guidance).

Procedures

Generally, the possibility of encountering human remains is not anticipated when conducting background research, remote sensing surveys, or field investigations of shipwrecks or other underwater archaeological resources. However, passengers and crew often die in shipwrecks and for each shipwreck identified there are possibly human remains associated.

If suspected human remains are located within the waters of the Commonwealth of Massachusetts, the following procedures should be followed by BUAR permittees and/or project proponents:

1. In the event that suspected human remains are encountered, any activity that might affect those remains shall be immediately halted.
2. The Project Director and, if applicable, the Project Archaeologist will be informed and notified of the exact location of the remains. *
3. The Project Archaeologist and the Project Director will be responsible for **immediately** notifying the State Police Detectives at the local District Attorney's Office, the Chief

Medical Examiner, the State Archaeologist, the BUAR, and the Environmental Police (contact information provided below).

4. If the Chief Medical Examiner determines that the human remains are less than 100 years old, a criminal investigation may be warranted. If the remains are determined to be older than 100 years, the Chief Medical Examiner will notify the State Archaeologist at the Massachusetts Historical Commission.
5. The State Archaeologist, assisted by BUAR staff, will conduct an examination to determine the age, cultural affiliation, and identity of the remains. If it is determined that the remains are those of a Native American, the State Archaeologist will notify the Commission on Indian Affairs. The State Archaeologist and BUAR Director will consult to determine whether any prudent and feasible alternatives exist to avoid, minimize, or mitigate impacts to the site. The results of this consultation will be made available in writing.

If it is not possible to protect the remains in situ, they may be excavated and/or removed only under a memorandum of agreement with all interested parties including the State Archaeologist/Deputy SHPO (State Historic Preservation Officer), BUAR Director, BUAR permittee and/or project proponent, and, if applicable, the Commission on Indian Affairs. This memorandum will outline an adequate data recovery plan that specifies a qualified research team and an appropriate research design (including a proposal for disposition of the remains). Any excavation of said human remains **must** be conducted under a Special Permit (950 CMR 70.20) issued by the State Archaeologist. In the event the human remains are associated with other cultural resources, such as a shipwreck, the appropriate permit must also be secured from BUAR (if not already a permittee of BUAR).

NOTE: * Under state law, the finder is responsible to insure that the proper authority is notified when suspected human remains are encountered.

Applicable Massachusetts General Laws (M.G.L.):

- ❑ M.G.L. Chapter 38, §6, as amended – Discovery of Unmarked Human Skeletal Remains
- ❑ M.G.L. Chapter 9, §26A – State Archaeologist’s duties
- ❑ M.G.L. Chapter 9, §27C – Cessation of Activities
- ❑ M.G.L. Chapter 7, §38A – Preservation, Excavation and Analysis of Native American Human Remains
- ❑ M.G.L. Chapter 114, §17 – Preservation of Ancient Burial Places
- ❑ M.G.L. Chapter 272, §71 – Crimes and Punishment: Disinterring Bodies
- ❑ M.G.L. Chapter 272, §73, as amended – Crimes and Punishment: Injuring or Removal of Burial Markers
- ❑ M.G.L. Chapter 91, §63 – Salvage, Recovery, etc. of Underwater Archaeological Resources; Permits

List of Contacts

State

District Attorney's Office State Police Detectives Unit Contact:

State Police Communications Section

(who will contact detectives at local district attorney's office)

(508) 820-2121

Massachusetts Environmental Police

251 Causeway Street, Suite 100

Boston, Massachusetts 02114

Contact: Communications Center (who will contact local EPO)

(800) 632-8075 or (617) 626-1665

State Office of the Chief Medical Examiner

720 Albany Street

Boston, Massachusetts 02118

Contact: Dr. James Pokines, Forensic Anthropologist

(617) 267-6767; Fax (617) 266-6763

James.Pokines@state.ma.us

State Archaeologist/Massachusetts Historical Commission

220 Morrissey Boulevard

Boston, Massachusetts 02125

Contact: Brona Simon, State Archaeologist/Executive Director

(617) 727-8470; FAX: (617) 727-5128

mhc@sec.state.ma.us; Brona.simon@sec.state.ma.us

Massachusetts Board of Underwater Archaeological Resources

100 Cambridge Street, Suite 900

Boston, Massachusetts 02114

Contact: David S. Robinson, Director & Chief Archaeologist

(617) 626-1200

david.s.robinson@mass.gov

Commission on Indian Affairs

100 Cambridge Street, Suite 300

Boston, MA 02114

Contact: Jim Peters, Executive Director

(617) 573-1291; FAX: (617) 573-1515

john.peters@mass.gov