



The COMMONWEALTH OF MASSACHUSETTS
BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
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www.mass.gov/orgs/board-of-underwater-archaeological-resources

POLICY GUIDANCE FOR THE DISCOVERY OF UNANTICIPATED UNDERWATER ARCHAEOLOGICAL RESOURCES

Introduction

The Massachusetts Board of Underwater Archaeological Resources (MBUAR) is the state agency charged with the identification, preservation and protection of the Commonwealth's underwater archaeological resources. The purpose of archaeological investigations during the planning process for a project is to determine the presence or absence of culturally related materials and resources within a project area and determine or assess eligibility for listing in the National Register of Historic Places (National Register). This work will be undertaken pursuant to the applicable laws and regulations pertaining to the cultural resources of Massachusetts. Generally, these archaeological investigations are conducted to comply with the National Environmental Policy Act of 1969 (NEPA) and Section 106 of the National Historic Preservation Act of 1966, as amended (1976, 1980, 1992, 1999), and implementing regulations of the Advisory Council on Historic Preservation (Advisory Council) as well as pursuant to Massachusetts General Laws concerning the MBUAR and the Massachusetts Historical Commission (MHC).

The MBUAR recognizes that despite intensive background research, remote sensing surveys, and field investigations, it is always possible that cultural resource deposits such as shipwrecks may still be discovered during the course of construction activities on or below state bottomlands, particularly during excavation. MBUAR procedures that should be followed in the event that unanticipated underwater archaeological resources are inadvertently discovered during the non-MBUAR permitted activities are outlined below. NOTE: MBUAR permittees must also adhere to any general and special conditions placed on their permit.

In the event suspected human remains are encountered, you are directed to follow the MBUAR [Policy Guidance on the Discovery of Unanticipated Human Remains](#) as well.

Procedures

Below are steps that should be followed in the event that unrecorded shipwreck sites and/or other underwater archaeological resources are discovered during the project.

1. In the event that a suspected shipwreck or other site is uncovered during construction activity, that activity shall immediately be halted in the area of the find until it can be determined whether the object is a shipwreck or other underwater archaeological resource and if it represents a potentially significant feature or site.
2. The project field staff will immediately notify the project proponent upon the suspension of work activities in the area of the find. Notification will include the specific location in which the potential feature or site is located.



3. The project proponent will immediately contact its cultural resource management consultant to review the information. On-site personnel will provide information on the location and any discernable characteristics of the potential cultural resource (the target), and any survey data depicting the find. This information will be forwarded for review by the project archaeologist for the cultural resource management consultant.
4. If the project archaeologist determines that the site, feature, or target is not potentially cultural, the project field staff through the project proponent will be notified by the project archaeologist that work may resume. The project archaeologist will also notify MBUAR of this determination.
5. If, based upon both previously acquired and current remote sensing survey data, or other indications (e.g., timbers, etc.), it is determined that the new target is possibly a shipwreck or other potential cultural resource, the project archaeologist will inform the project proponent, who will inform the project field staff that work may not resume at the given location until notified in writing by the proponent. The cognizant federal and state review agencies, MBUAR, SHPO (State Historic Preservation Officer), and Advisory Council (if applicable) will be notified of this determination within 2 working days.
6. A visual inspection by archaeological divers or remotely operated vehicle (ROV) will be conducted to determine if the site is potentially eligible for listing in the National Register. The results of the survey will be formally submitted to cognizant federal and state review agencies, SHPO, MBUAR and the Advisory Council (if applicable) for final review and comment. The SHPO and MBUAR will endeavor to respond within 2 working days of receiving the inspection results and recommendations.
7.
 - a. If it is determined that the target, feature, or site does not represent a potentially significant resource, and project proponent is in receipt of written comment from the review agency(s), work may resume in that area.
 - b. If a National Register determination cannot be made in accordance with Step 6, the project proponent may either undertake additional research to satisfy Step 6 or exercise Step 8 (avoidance).
8. If agency review concurs or concludes that the site may be important and is potentially National Register eligible, the project proponent will develop avoidance measures to eliminate the site from the Area of Potential Effects. Any proposed avoidance measures will be made available to the cognizant federal and state review agencies, SHPO, MBUAR, and Advisory Council for review and comment.
9. If avoidance measures cannot be developed and executed, the resource may be excavated and/or removed only under a memorandum of agreement with all interested parties including the State Archaeologist/Deputy SHPO, MBUAR Director, MBUAR permittee and/or project proponent, and, if applicable, the Advisory Council subject to appropriate state permits. This memorandum will outline an adequate data recovery plan that specifies a qualified research team and an appropriate research design. The appropriate permits must also be secured from MBUAR (if not already a permittee of MBUAR) and the MHC prior to conducting any further disturbance to the site. In the event that human remains are associated with other cultural resources, see MBUAR's Policy Guidance on the Discovery of Unanticipated Human Remains for required procedures.

Applicable State and Federal Laws

MGL Chapter 9, § 26-27C - MHC review of state projects, State Archaeologist's Permits

MGL Chapter 91, §63 – Underwater Archaeological Resources Permits

312 CMR 2.00: Board of Underwater Archaeological Resources

950 CMR 70.00: Massachusetts Historical Commission

Section 106 of the National Historic Preservation Act of 1966 (16 USC 470f), as amended (1976, 1980, 1992, 1999)

National Environmental Policy Act of 1969 (“NEPA”)

List of Contacts

Federal

To be named based on applicable federal jurisdiction

State

State Archaeologist/Massachusetts Historical Commission/SHPO

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Others to be named based on applicable state jurisdiction, such as the Massachusetts Department of Conservation and Recreation, the Commission on Indian Affairs, and Tribal Historic Preservation Officers

Short list of potential federal agencies and offices with applicable jurisdiction (not comprehensive):

Advisory Council on Historic Preservation

Army Corps of Engineers

Coast Guard

Federal Energy Regulatory Commission

Fish and Wildlife Service

National Park Service

Tribal Historic Preservation Officers