

650-RICR-20-05-4

## **TITLE 650 – COASTAL RESOURCES MANAGEMENT COUNCIL**

### **CHAPTER 20 – COASTAL MANAGEMENT PROGRAM**

#### **SUBCHAPTER 05 – OCEAN SPECIAL AREA MANAGEMENT PLAN**

##### **PART 4 – Cultural and Historic Resources**

#### **4.1 Authority**

- A. As authorized by the federal Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 through 1466) and R.I. Gen. Laws Chapter 46-23 the Coastal Resources Management Council may implement special area management plans.
- B. The regulations herein constitute a RICR regulatory component of the Ocean Special Area Management Plan (SAMP) Chapter 4 - Cultural and Historic Resources, and must be read in conjunction with the other RICR regulatory components and chapters of the Ocean SAMP for the full context and understanding of the CRMC's findings and policies that form the basis and purpose of these regulations. The other RICR regulatory components and chapters of the Ocean SAMP should be employed in interpreting the regulations herein and R.I. Gen. Laws § 46-23-1, *et seq.*

#### **4.2 Purpose**

The purpose of these rules is to carry out the responsibilities of the Coastal Resources Management Council in establishing the Ocean Special Area Management Plan (SAMP) for the offshore waters (beyond 3 nautical mile state water boundary) within the geographic location description (GLD) and to provide the regulatory framework for promoting a balanced and comprehensive ecosystem-based management approach to the development and protection of Rhode Island's ocean-based resources. In addition, these rules establish the regulatory standards and enforceable policies within the GLD for purposes of the federal Coastal Zone Management Act federal consistency provisions pursuant to 16 U.S.C. § 1456 and 15 C.F.R. Part 930.

#### **4.3 Policies and Standards (formerly § 440)**

- A. The Council recognizes the rich and historically significant history of human activity within and adjacent to the Ocean SAMP area. These numerous sites and

properties, that are located both underwater and onshore, should be considered when evaluating future projects.

- B. The Coastal Resources Management Council (“Council”) has a federal obligation as part of its responsibilities under the Federal Coastal Zone Management Act to recognize the importance of cultural, historic, and tribal resources within the state’s coastal zone, including Rhode Island state waters. It has a similar responsibility under the Rhode Island Historic Preservation Act. The Council will not permit activities that will significantly impact the state’s cultural, historic and tribal resources.
- C. The Council will engage federal and state agencies, and the Narragansett Indian Tribe’s Tribal Historic Preservation Office (THPO), when evaluating the impacts of proposed development on cultural and historic resources. The Rhode Island Historic Preservation and Heritage Commission (RIHPHC) is the State Historic Preservation Office (SHPO) for the state of Rhode Island, and is charged with developing historical property surveys for Rhode Island municipalities, reviewing projects that may impact cultural and historic resources, and regulating archaeological assessments on land and in state waters. For other tribes outside of Rhode Island that might be affected by a federal action it is the responsibility of the applicable federal agency to consult with affected tribes.
- D. Project reviews will follow the policies outlined in § 00-1.2.3 of this Chapter “Areas of Historic and Archaeological Significance” and in § 00-1.3.5 of this Chapter “Guidelines for the Protection and Enhancement of the Scenic Value of the Coastal Region” of the State of Rhode Island Coastal Resources Management Program, As Amended (“Red Book”). The standards for the identification of cultural resources and the assessment of potential effects on cultural resources will be in accordance with the National Historic Preservation Act Section 106 regulations at 36 C.F.R. Part 800, Subpart B - Protection of Historic Properties.
- E. Historic shipwrecks, archeological or historical sites located within Rhode Island’s coastal zone are Areas of Particular Concern (APCs) for the Rhode Island coastal management program. Direct and indirect impacts to these resources must be avoided to the greatest extent possible. Other areas, not noted as APCs, may also have significant archeological sites that could be identified through the permit process. For example, the area at the south end of Block Island waters within the 30 foot depth contour is known to have significant archeological resources. As a result, projects conducted in the Ocean SAMP area may have impacts to Rhode Island’s underwater archaeological and historic resources.
- F. Archaeological surveys shall be required as part of the permitting process for projects which may pose a threat to Rhode Island’s archaeological and historic

resources. During the filing phase for state assent, projects needing archaeological surveys will be identified through the joint review process. The survey requirements will be coordinated with the SHPO and, if tribal resources are involved, with the Narragansett THPO.

- G. APCs may require a buffer or setback distance to ensure that development projects avoid or minimize impacts to known or potential historic or archaeological sites. The buffer or setback distance during the permitting process will be determined by the SHPO and if tribal resources are involved, the Narragansett THPO.
- H. In addition to general Area of Particular Concern buffer/setback distances around shipwrecks or other submerged cultural resources, the Council reserves the right, based upon recommendations from RIHPHC, to establish protected areas around all submerged cultural resources which meet the criteria for listing on the National Register of Historic Places.
- I. Projects conducted in the Ocean SAMP area may have impacts that could potentially affect onshore archaeological, historic, or cultural resources. Archaeological and historical surveys may be required of projects which are reviewed by the joint agency review process. During the filing phase for state assent, projects needing such surveys will be identified and the survey requirement will be coordinated with the SHPO and if tribal resources are involved, with the Narragansett THPO.
- J. Guidelines for onshore archaeological assessments in the Ocean SAMP Area can be obtained through the RIHPHC in their document, "Performance Standards and Guidelines for Archaeological Projects: Standards for Archaeological Survey" (RIHPHC 2007), or the lead federal agency responsible for reviewing the proposed development.

#### **4.3.1 Marine Archaeology Assessment Standards (formerly § 440.1)**

- A. The potential impacts of a proposed project on cultural and historic resources will be evaluated in accordance with the National Historic Preservation Act and Antiquities Act, and the Rhode Island Historical Preservation Act and Antiquities Act as applicable. Depending on the project and the lead federal agency, the projects that may impact marine historical or archaeological resources identified through the joint agency review process shall require a Marine Archaeology Assessment that documents actual or potential impacts the completed project will have on submerged cultural and historic resources.
- B. Guidelines for Marine Archaeology Assessment in the Ocean SAMP Area can be obtained through the RIHPHC in their document, "Performance Standards and

Guidelines for Archaeological Projects: Standards for Archaeological Survey” (RIHPHC 2007), or the lead federal agency responsible for reviewing the proposed development.

#### **4.3.2 Visual Impact Assessment Standards (formerly § 440.2)**

- A. The potential non-physical impacts of a proposed project on cultural and historic resources shall be evaluated in accordance with 36 C.F.R. § 800.5, Assessment of Adverse Effects, (v) Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property’s significant historic features. Depending on the project and the lead federal agency, the Ocean SAMP Interagency Working Group may require that a project undergo a Visual Impact Assessment that evaluates the visual impact a completed project will have on onshore cultural and historic resources.
- B. A Visual Impact Assessment may require the development of detailed visual simulations illustrating the completed project’s visual relationship to onshore properties that are designated National Historic Landmarks, listed on the National Register of Historic Places, or determined to be eligible for listing on the National Register of Historic Places. Assessment of impacts to specific views from selected properties of interest may be required by relevant state and federal agencies to properly evaluate the impacts and determination of adverse effect of the project on onshore cultural or historical resources.
- C. A Visual Impact Assessment may require description and images illustrating the potential impacts of the proposed project.
- D. Guidelines for Landscape and Visual Impact Assessment in the Ocean SAMP Area can be obtained through the lead federal agency responsible for reviewing the proposed development.

650-RICR-20-05-4

**TITLE 650 - COASTAL RESOURCES MANAGEMENT COUNCIL**  
**CHAPTER 20 - COASTAL MANAGEMENT PROGRAM**  
**SUBCHAPTER 05 - OCEAN SPECIAL AREA MANAGEMENT PLAN**  
PART 4 - RICRMP: OCEAN SAMP - CHAPTER 4 - CULTURAL AND HISTORIC  
RESOURCES (650-RICR-20-05-4)

Type of Filing: Amendment

**Agency Signature**

---

Agency Head Signature

---

Agency Signing Date

**Department of State**

---

Regulation Effective Date

---

Department of State Initials

---

Department of State Date