

302 CMR: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

302 CMR 8.00: MAJOR CAPITAL IMPROVEMENTS WITHIN THE MT. GREYLOCK STATE RESERVATION

Section

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8.01: General Provisions

(1) Authority. 302 CMR 8.00 is promulgated by the Board of Environmental Management pursuant to the authority granted to it under St. 1985, c. 676.

(2) Purpose St. 1985, c. 676. The Mt. Greylock State Reservation benefits the Commonwealth with unique scenic, natural and historic qualities. The purpose of St. 1985, c. 676 is to create a regional economic facility area in the form of a joint public and private development of Greylock Glen, involving lands immediately adjacent to the reservation and the limited use of a portion of the reservation lands, as well as to provide that the unique scenic, natural and historic qualities of the reservation will be protected. St. 1985, 676 requires the unanimous consent of the members of the Board of Environmental Management for certain specified actions affecting the reservation, among them "major capital improvements within the Mt. Greylock State Reservation, as defined in regulations to be promulgated by the Board of Environmental Management". 302 CMR 8.00, applies to all reservation land but do not apply to the "land" (the Greylock Glen parcels) and the "abutting reservation land" (a portion of the Theil Farm) as more particularly defined in St. 1985 302 CMR 8.00 and herein.

(3) Purpose 302 CMR 8.00. 302 CMR 8.00 is promulgated to create uniformity of procedures, to help clarify the provisions of St. 1985, c. 676 by establishing standard definitions and procedures; and to provide for an orderly and structured approach to planning for proposed major capital improvements within the regulated portions of the reservation while allowing enough flexibility to accommodate unexpected events and routine maintenance and management.

8.02: Definitions

Abutting Reservation Land: That area of land within the Mt. Greylock State Reservation, also known as a portion of the Theil Farm, shown on a plan of land on file at the Department's office, entitled "Land to be used in connection with the operation of the Greylock Glen Recreational Facilities", all as more particularly bounded and described in St. 1985, c. 676.

Board: Board of Environmental Management.

Conceptual Plan: A plan, consisting of drawings and text, prepared by the Department or by those entities authorized by the Department, which specifies the scope, intent, general features, significant impacts, relationship to other elements of the Reservation, budget and any valid alternatives of each specific major capital improvement included in the Major Capital Improvements Plan.

Department: Department of Environmental Management.

8.02: continued

Facilities: Any improvement which alters the natural environment, constructed by the Department or by those entities authorized by the Department, including but not limited to roads, parking lots, trails for hiking or skiing, utilities (above and below ground, including systems for water supply and sewage disposal), campgrounds, ponds and structures including temporary or permanent buildings, towers, monuments and memorials, monitoring equipment for the transmission of intelligence or visual images, fences, dams and signs, except for those signs specifically exempted herein.

Land: That area of land in Berkshire County, also known as Greylock Glen, as shown on a plan of land on file at the Department's office, entitled "Land to be Acquired in Connection with the Development of Greylock Glen" all as more particularly bounded and described in St. 1985, c. 676.

Lands: the land and the abutting reservation land.

Maintenance: performance of routine services on a facility to allow it to continue its intended function.

Major Capital Improvement: a new visual, or physical addition to or expansion of the facilities or natural resource alteration activities presently existing or any expansion of such facilities or natural resource alteration activities including, but not limited to those actions that:

- (a) expand the existing physical plant
- (b) cause a significant change in appearance or visual impact
- (c) affect the summit area of the Mt. Greylock State Reservation, within the Reservation, a $\frac{3}{4}$ mile radius including the Mount Greylock War Memorial Area
- (d) expand the trail system, other than routine trail improvement by the Appalachian Mountain Club and trail maintenance work carried out by the Department or by those entities authorized by the Department
- (e) expand the campgrounds or parking lots
- (f) involve road construction or reconstruction.

Major Capital Improvements Plan: a document and accompanying map, prepared by the Department, which outlines all major capital improvements proposed to be made in the reservation for a five year period. Such plan shall include:

- (a) description of each proposed improvement
- (b) the anticipated cost for each proposed improvement
- (c) the location of each proposed improvement
- (d) information regarding the effect on the environment of each proposed improvement
- (e) alternatives, if any, to each proposed improvement
- (f) a statement regarding the priority, logical sequence, design time and other implementation constraints of each proposed improvement and
- (g) a statement of whether each proposed improvement represents an expansion or significant revision of the physical plant or whether it represents repair or maintenance of the physical plant.

Natural Resource Alteration Activities: Work or projects, undertaken by the Department or by those entities authorized by the Department, which are not part of maintenance activities but affect the natural environment to a significant degree, such as but not limited to, stream alteration or the alteration of topography by excavation, filling, mining or cutting.

Rehabilitation: Restoration of a structure or facility to its original condition.

Repairs: work undertaken by the Department or by those entities authorized by the Department, to restore the intended function to any existing facility.

Reservation: The Mt. Greylock State Reservation.

8.03: Procedure

(1) Submission of the Major Capital Improvements Plan. Within five months of the effective date of 302 CMR 8.00, the Department shall submit a Major Capital Improvements Plan for the reservation to the Board for adoption at its next regularly scheduled meeting. The submission must be made at least 30 days prior to the Board meeting. At least 21 days prior to the meeting of the Board, notice of the submission of the plan and the time, date and place of the Board meeting shall be given by legal advertisement in the Berkshire Eagle, the Berkshire Courier, the North Adams Transcript and the Environmental Monitor. Such notice shall also be mailed to the Mt. Greylock Advisory Board and the Boards of Selectmen of Adams, Cheshire, Lanesborough, New Ashford, and Williamstown and to the North Adams City Council.

(2) Approval of the Board. At their next regularly scheduled meeting, after submission of the Major Capital Improvements Plan by the Department, the Board shall vote on adoption of the plan. The Board may adopt the plan in whole or in part by a unanimous vote of all seven members of the Board. In the event of a vacancy on the Board, an affirmative vote of all sitting members shall be sufficient to adopt the plan. In the event that any member of the Board is prevented from attending the meeting, he or she may submit a written vote at the meeting, but in no event shall a vote be taken in the absence of either the Berkshire County member of the Board or the member of the Board representing statewide environmental groups as set forth in St. 1985, c. 676.

(3) Effect: Modification of Plan. After approval by the Board, the Major Capital Improvements Plan shall be in full force and effect for five years. Such plan may be modified by unanimous vote of the Board after submission of a request for modification by the Department.

(4) Approval of a Specific Capital Improvement. After approval by the Board of the Major Capital Improvements Plan, the Board shall retain the power to approve the conceptual plan of each specific major capital improvement included in the Major Capital Improvements Plan as it is designed by the Department or by an entity approved by the Department. The Department shall submit the conceptual plan of each specific major capital improvement at a regularly scheduled meeting of the Board after written notice has been mailed to each member at least 20 days prior to the meeting. Such approval shall be given by the unanimous vote of all seven members of the Board. In the event of a vacancy on the Board, an affirmative vote of all sitting members shall be sufficient to approve the conceptual plan. In the event that any member of the Board is prevented from attending the meeting, he or she may submit a written vote at the meeting, but in no event shall a vote be taken in the absence of either the Berkshire County member or the member of the Board representing statewide environmental groups as set forth in St. 1985, c. 676. The vote of the Board shall be made by roll call and shall be duly recorded in the minutes of the meeting.

(5) Emergency Provision. In the event of an emergency, natural disaster or event that arises out of unexpected circumstances, the Department or an entity approved by the Department, may undertake a necessary specific major capital improvement prior to submitting a conceptual plan to the Board. In such event, the Department shall advise the Board of its action as soon as it is practicably possible to do so.

8.04: Exemptions

Board approval shall not be required for the following specific activities which need not be included in the Major Capital Improvements Plan:

- (a) General and routine maintenance, rehabilitation and repairs which do not enlarge existing structure and facilities.
- (b) Construction of open-faced shelters and lean-tos.
- (c) Directional signs, conforming to the Department's sign standards.
- (d) Privies along trails and in campgrounds.
- (e) Existing agricultural activities.
- (f) Logging operations approved under M.G.L. c. 132, § 40 *et seq.* (the Forest Cutting Practices Act)
- (g) Silvicultural Practices

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8.05: Interpretation

In the event that a question arises as to the determination of whether a capital improvement is major or exempt from approval, that determination shall be made by the board, acting with the advice of Department counsel upon the request of the Regional Forests and Parks Supervisor.

8.06: Severability

If any provision of 302 CMR 8.00 or the application thereof is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or the application of any part of 302 CMR 8.00 not specifically held invalid, and to this end the provisions of 302 CMR 8.00 thereof are declared to be severable.

REGULATORY AUTHORITY

302 CMR 8.00: St. 1985, M.G.L. c. 676.