

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 99-124

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

### 2. Form, Style and Placement in Administrative Code

a. The rule is inconsistent in its use of terms relating to groups of campers and unclear in its policy. It defines the terms “adult group,” “non-family group” and “group campsite.” It appears that “adult group” is used only in the definition of “group campsite,” along with the undefined term, “juvenile group.” In s. KB 1.09, relating to camping, instead of using the defined terms, the rule refers generically to “camping party” and “camping unit” without defining either. Although the rule does include substantive provisions regarding the size of camping parties, they are incomplete and improperly placed in the definition of “campsite.” The board should more fully specify its policies regarding the size of camping groups allowed in group and nongroup campsites, and whether different treatment will be given to parties consisting of adults, juveniles or unrelated individuals, in s. KB 1.09. Definitions should then be included only for those terms that are used, and only as necessary to clarify the meanings of terms.

b. In general, nouns are not capitalized in rules unless the word in question would be capitalized when appearing alone. [s. 1.01 (4), Manual.] The only word that will be capitalized in midsentence in this rule is “Kickapoo.” Examples of the correct capitalization of terms used in the rule are: Kickapoo river; Kickapoo reserve management board; and department of natural resources. The rule should be reviewed for correct capitalization of these and similar terms.

c. The definitions in s. KB 1.02 (5) and (6) should be reversed so that they will be in alphabetical order.

d. The last clause of the definition of “reserve,” beginning with “plus any other land acquired,” is unnecessary, since s. 41.41 (2), Stats. (the basis of the first clause of the definition), states that the reserve consists of land acquired from the federal government or acquired by the board under s. 41.41 (7), Stats. Also note that the definition is out of alphabetical order.

e. The words “for this chapter” should be omitted from the definition of “primitive camping,” in s. KB 1.02 (16).

f. In s. KB 1.03 (3) (b), should “conduct” replace “behavior” for consistency with par. (a)?

g. Permissive authority is expressed by the word “may.” [s. 1.01 (2), Manual.] Accordingly, the phrase “reserves the right to” in ss. KB 1.03 (1) (c) and 1.09 (6) should be replaced by the word “may.”

h. In s. KB 1.03 (3) (j), the words “regulated by” should be replaced by the words “as defined in.”

i. The numbering of the subunits of s. KB 1.04 (1) does not follow proper drafting conventions. [See, in particular, s. 1.03 (8), Manual.] The errors in this subsection could be corrected if the model in s. NR 45.05, on which this is based, were more closely followed. However, that model notwithstanding, s. KB 1.04 (1) (e) (intro.) should end with a phrase such as “in any of the following situations:” and s. KB 1.04 (1) (e) 1. and 2. should end in periods, omitting the word “or.”

j. The rule should make better use of the active voice. For example, s. KB 1.04 (1) (f) and (2) state that vehicles “may be towed”; the rule should use the active voice, indicating who may tow the vehicles or cause them to be towed. Also, s. KB 1.09 (3) and (9) should clearly state that a *camper* must obtain a permit and must pack out all refuse and s. KB 1.10 should clearly state that an applicant must apply for a permit at least 30 days before an event.

k. The title of s. KB 1.04 (2) should be “ABANDONED VEHICLES.”

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. The references in the rule analysis and the introductory clause to ss. 44.40 and 44.41, Stats., should be corrected, to refer to ss. 41.40 and 41.41, Stats.

b. Section KB 1.02 (11) defines “firearm” as “any of the weapons listed in s. NR 10.001.” This is not appropriate for a number of reasons. First, there are weapons listed in s. NR 10.001 that are not firearms--see s. NR 10.001 (4), which defines “bow.” Second, the cited section does not list weapons; rather, it defines a number of terms. Third, since weapons are scattered throughout the defined terms, it is difficult for a reader to find them. It would be preferable for the board to develop a definition of “firearm.” For example, see s. 167.31 (1) (c), Stats.

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. It might be helpful to the public if the amount of fees charged for the use of the Kickapoo Valley Reserve were set forth in the rule. The Department of Natural Resources includes very detailed fee schedules in ch. NR 45, which the analysis to this rule identifies as the model for much of ch. KB 1.

b. In s. KB 1.03 (1) (a) (intro.), the word “and” should be omitted and “a” should be inserted before the second “natural.”

c. Section KB 1.03 (1) (a) 3. should be written as a full sentence, as are the other subdivisions of that paragraph. Also, while a lease agreement may provide more specifics, it may be advisable to include some basic limits in the rule, e.g., that the lessee is subject to the general provisions protecting natural and archaeological features.

d. In s. KB 1.03 (1) (b), a comma should be inserted after the word “building.”

e. What is the purpose of s. KB 1.03 (1) (d)? For what purposes are the listed activities approved? Are all other activities prohibited in the reserve?

f. The title of s. KB 1.03 (2), should be changed to “**Hours of operation**” to reflect the contents of that subsection.

g. It appears that s. KB 1.03 (3) (g) should refer to “property manager,” rather than “property superintendent.” Also, par. (d) refers to “written permit from the board,” par. (e) refers to “authorized in writing by contractual agreement with the board” and par. (g) refers to “written permit issued by the property superintendent.” Are different protocols intended for each of these?

h. Section KB 1.04 (3) (a) addresses the use of vehicles on waters of the reserve; however, as defined, “vehicle” does not include watercraft. Some clarification appears to be needed. Also in that paragraph, the phrase “Except as provided” appears superfluous and should be omitted.

i. Section KB 1.04 (3) (d) appears to be redundant with s. KB 1.04 (1) (a) to (c), considering that bicycles appear to fall within the definition of “vehicle.”

j. In s. KB 1.05 (2), it appears that the comma after the word “area” should be placed after the second occurrence of the word “hunting.”

k. Section KB 1.03 (3) (h) refers to the time of year when ski trails are covered with snow, while s. KB 1.05 (3) refers to the time of year when ski trails are used for cross-country skiing. Should these provisions be made uniform? The standard of being snow covered appears to best achieve the purpose of the provisions.

l. In s. KB 1.06 (1), the word “to” should be deleted.

m. As written, s. KB 1.08 (1) prohibits the construction of tree stands or blinds for any purpose. The fact that it is in a section titled, “**Firearms and hunting**” does not limit it to hunting. Is this the board’s intent?

n. In s. KB 1.08 (2) (c), it appears that “rites” should replace “rights.”

o. In s. KB 1.10 (1), the word “fisherman” should be pluralized. Also, in order to be gender-neutral, the final phrase of that subsection should be “persons who fish, hunt or trap.”