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CLEARINGHOUSE RULE 00-002

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.]

General Comment

This rule is in very rough form. It consists of several separate draft orders, not compiled into a single rule-making order. It lacks effective dates. [See s. 1.02 (4), Manual.] It lacks a regulatory flexibility analysis. [See s. 1.02 (6), Manual.] It has not been subjected to adequate editing, as evidenced by numerous errors in drafting format and style, incorrect cross-references, and even several instances of missing text. In short, it is not in the form required, should not have been submitted to the Legislative Council Rules Clearinghouse or be given public hearings without considerable additional work. The comments in this report will identify the kinds of errors that are in the draft. The report will identify many individual errors, but it will by no means identify all errors. The entire rule should be reviewed and thoroughly revised to correct the kinds of errors described in this report.

The rule has been submitted as one document and has one fiscal estimate covering all four chapters affected. However, it has four orders. The Legislative Council Rules Clearinghouse treated it as one Clearinghouse rule. If the department wishes that they be treated as four separate rules, the department should delete three of the chapters from this rule and resubmit them to the Clearinghouse to be assigned new Clearinghouse rule numbers. If all four chapters are retained in this Clearinghouse rule, they should be placed in numerical order, preceded by one introductory clause and analysis.

2. Form, Style and Placement in Administrative Code

a. The rule makes numerous errors with regard to the renumbering of rule provisions. First, it is entirely unnecessary to renumber a long string of provisions to make room for insertions, as is done in SECTION 1 on page 9, or in response to the repeal of existing provisions, as is done in SECTION 11 on page 83. [See s. 1.03 (7), Manual, for a simpler method of handling insertions.]

Second, the format used for renumbering is incorrect. For example, the treatment clause for SECTION 2 on page 9 should read: “NR 809.04 (48) is renumbered NR 809.04 (57) and amended to read:”. Also, SECTION 9 on page 83 should read: “NR 811.13 (4) to (6) are renumbered NR 811.13 (5) to (7).”

Third, it is appropriate to amend a portion of the provisions that are renumbered. For example, the treatment clause of SECTION 29 on page 45 should read: “NR 809.80 (4) to (6) and (7) to (9) are renumbered NR 809.80 (5) to (7) and (9) to (11) and NR 809.80 (6) (intro.) and (7) (intro.) and (a) 3., as renumbered, are amended to read:”.

Fourth, when amending renumbered text, the numbering of the provisions shown in the text of the rule should be as renumbered. The rule should not renumber a provision in the treatment clause and then, through striking and underscoring in the text, renumber it again. Again, see the example on page 45.

b. The text of each rule SECTION should begin with the complete citation to the rule provision being affected. For example, the first text on page 9 should begin as follows: “NR 809.04 (7) “Comprehensive performance evaluation” or “CPE” means” If subsequent subunits are affected by the same SECTION, they should be preceded by as much of the citation as is not previously presented. This error is made in almost every SECTION of the rule.

c. The text of SECTION 2 belongs in SECTION 3, and vice versa. SECTION 1 also renumbers something to be s. NR 809.04 (77), in conflict with SECTION 3.

d. Definitions should simply state the meaning of the the defined term. Descriptive material should be placed in notes. For example, the second sentence of the definition of “disinfection profile” should be placed in a note, as should all of the material after the comma in the definition of “SUVA.” Substantive requirements should be placed in the text of the rule. For example, the first sentence of the definition of “maximum residual disinfectant level” provides sufficient definition for the term; the remainder of that definition is substantive and should be placed in the text of the rule.

e. The definition of “comprehensive performance evaluation” is not so much a definition as a discussion of the term. Clearly, this was taken from federal guidance documents without being recast in the form of a definition. (The inappropriate reference to “Subpart P of this part” is further evidence of this.) This provision should be rewritten as a definition.

f. In the definitions of “comprehensive performance evaluation,” “disinfection profile” and “filter profile,” the word “is” should be replaced by the word “means.”

g. The principal method for amending existing rule text is to strike-through the words and punctuation to be removed and insert any words and punctuation to be added in the appropriate place with underscoring. For some reason, a number of provisions have the wrong words underscored or stricken, or have such words in the wrong order. See, for example, the treatment of the definition of “public water system” on page 11, s. NR 809.31 (5) (c) on page 14, s. NR 809.77 on page 39, the note following ch. NR 114 (title) on page 72, s. NR 114.14 (1) (h) on page 74 and s. NR 811.16 (4) (d) 2. on page 83. Similar errors are made throughout the rule in the striking and underscoring of punctuation (e.g., in the treatment of s. NR 809.77).

Also, it is not permissible to strike a single letter of a word or underscore a single letter added to a word. Instead, the entire word to be changed should be stricken, followed by the entire word in its changed form with underscoring. For example, in s. NR 809.31 (6), “surveys” should be replaced by “~~surveys~~ survey”.

Finally, it is not appropriate to add “(s)” at the end of a word. [For example, see s. NR 809.563.]

h. Frequently, the rule creates an entire new unit by underscoring it. Sometimes this is done within the context of amending a larger unit, such as the creation of a new paragraph in the definition of “public water system” on page 11. In these cases, a separate SECTION should be used to create the new unit without underscoring. In other cases, the treatment clause states that the unit is being created, but the text is nonetheless underscored, as in the creation of s. NR 114.05 (9) on page 73; in these cases, the underscoring should be omitted.

i. The rule consistently makes incorrect use of introductory clauses. [See s. 1.03 (8), Manual.] These clauses should be used to introduce lists of provisions, and usually end in a phrase such as “all of the following.” Each of the provisions following introductory clauses should end with a period. For example, in the definition of “public water system” on page 11, par. (c) does not follow grammatically or conceptually from the language that introduces pars. (a) to (c). To correct this, this definition should be broken into three paragraphs; par. (a) would consist of the first sentence of the definition; par. (b) (intro.) would read ““Public water system” includes all the following:”; what is drafted as pars. (a) and (b) would be subs. 1. and 2. of par. (b) and would each end in a period; par. (c) would be as drafted. As another example, s. NR 809.90 (1) (d) on page 55 does not follow from the introduction, and so should be placed in a separate subsection.

Also, where introductory material is being affected by a rule, the notation “(intro.)” should be included in the citation in the treatment clause and in the citation at the beginning of the text. For example, SECTION 11 on page 13 should read as follows:

SECTION 11. NR 809.26 (3) (intro.), (a) and (b) are amended to read:

NR 809.26 (3) (intro.) Monitoring for sulfate and the contaminants listed in

j. The treatment clause of SECTION 5 is not acceptable. The only acceptable methods of amending text are striking and underscoring, as described above, or repealing and recreating. SECTION 5 must use one of these methods, presumably the former. The same applies for the treatment clause for SECTION 33 on page 47.

k. The rule uses much jargon and many acronyms, often without definition. Jargon should be avoided and all technical terms and acronyms should be defined unless their meaning is commonly understood. For example, although “HAA5” is defined, the acronym “TTHM” is not. Other terms that are not defined include “subpart H community water system,” “dissolved organic carbon,” “DOC,” “UV254,” “the Information Collection Rule,” “treatment plant,” “treatment segment,” “grandfathered HAA5 occurrence data,” “disinfection byproduct precursor,” “NTU,” “PWS,” “Safe Drinking Water Certified laboratory,” “primacy agency,” “TT” and “safe sample.” In addition, the rule uses inappropriate methods of informing the reader of the meaning of some of these terms, instead of providing definitions. For example, in s. NR 809.22, we are told the meaning of “total trihalomethanes” in a parenthetical comment; in other provisions, such as s. NR 809.562 (1), acronyms are given in parentheses following the full term, and are then used without further definition. These are not acceptable alternatives to definitions.

l. A troublesome problem of undefined terminology in the rule is the term used to identify the entities subject to regulation under the rule. Throughout most of the rule, the term “system” is used. Since this term is not defined, the reader does not know if it refers to all public water systems, to community water systems, to noncommunity water systems, to nontransient noncommunity water systems, or what. At times, other terms are used: “PWS” is used on page 26; “public water system supplier” is used on page 38; “water supplier” is used on page 44; “public water system” is used on page 45; and “operator” is used on page 48. To give clarity to the rule, it is imperative that consistent terminology be used, especially for such a critical term as this, and that it be defined.

m. The second-to-last sentence of s. NR 809.22 is explanatory rather than substantive, and so should be placed in a note.

n. In general, the only treatments that can be combined in one SECTION are: (1) renumbering and amending; or (2) repealing and recreating. In most other cases, only one treatment may be performed in a single SECTION. SECTION 10 should be split into two SECTIONS, one repealing s. NR 809.26 (1) (i) and the other renumbering and amending s. NR 809.26 (1) (j). The same applies to SECTION 13.

o. In SECTION 11 and numerous other places in the rule, the word “department” should be written in lowercase.

p. To provide the greatest clarity, rules should be written in the active voice, where possible using short declaratory sentences in a form such as: “X shall do Y.” For example, in s. NR 809.561 (1) (b) 2., “a schedule shall be set by the Department” should be replaced by “the department shall set a schedule.” Section NR 809.75 (4) (intro.) should read: “After December 17, 2001, a system shall install and operate water treatment processes that will reliably achieve

all of the following:”. There are numerous other provisions which could be made more clear by the use of the active voice.

q. Throughout the rule, but especially in subch. III of ch. NR 809, the rule ignores the conventions regarding the use of titles. The rule is not consistent in when it uses titles; some, but not all, paragraphs of a subsection will have titles or some, but not all, subdivisions of a paragraph will have titles. Also, the rule does not follow the formatting conventions for titles--except for section titles, the rule writes almost all titles in the same fonts as the text of the rule. The combined effect of these two errors is to make it difficult to tell where titles are being used and to distinguish them from the text of the rule. It is striking how much easier it is to read s. NR 809.83 than it is to read the rest of the rule.

As an example, the subsection titles in s. NR 809.833 follow a variety of formats. Subsection (1) has no title; subs. (2) and (4) correctly use all capital letters; sub. (3) uses all capital letters, but they are underscored; subs. (5) to (8) use italicized letters with different capitalization from one subsection to the next.

r. In s. NR 809.561 (1) (b) 2., should the reference to “GAC” be replaced by the defined term “GAC10”? If not, the meaning of that term should be clarified.

s. The significance of s. NR 809.561 (1) (b) and (2) (c) is entirely unclear; s. NR 809.562 (2) is equally unclear. These provisions should be rewritten in the active voice, clearly identifying their significance and any requirements they are creating.

t. Section NR 809.562 (2) (a) is the only paragraph in that subsection. It should either be elevated to the level of a subsection or, given its specific content, be made a separate section. For the same reason, s. NR 809.563 (1) (a) should be made a separate subsection.

u. In s. NR 809.562 (2) (a) (intro.), there is a stray occurrence of the word “disinfectant.”

v. Section NR 809.562 (5) appears redundant with s. NR 809.81.

w. The history note following s. NR 809.562 should be omitted.

x. Section NR 809.563 (2) should be broken into paragraphs to make the information more accessible. Given the amount of information contained in it, it might be worth creating a separate section for this. Compare to ch. NR 484 for a more usable format for incorporating documents by reference.

y. Table 1, following s. NR 809.560 (3) (a) is very cryptic and could use some explanation. Are the various methods listed in the table incorporated by reference? If so, the table should include cross-references to the provisions that incorporate each of these methods. The same comment applies to Table 2. Also in regard to Table 1, there is an indication for a footnote 2, but no footnote and no indication at all of a footnote 1. In regard to Table 2, there is a footnote 1, but no indication of what it refers to in the table.

z. Since s. NR 809.563 (1) (a) and (3) (a) are the only paragraphs in the respective subsections, the paragraph notations should be dropped. The former paragraph should either be merged with the introduction or made a separate subsection; the latter paragraph should simply be renumbered as sub. (3). Similar errors occur in numerous other provisions of the rule.

aa. Section NR 809.563 (4) (intro.) does not introduce the paragraphs that follow. Therefore, it should be numbered par. (a) and the following paragraphs should be numbered pars. (b) to (d).

ab. In s. NR 809.563 (4) (b), the abbreviation “PE” should not be used, but should be spelled out.

ac. Are the various methods listed in s. NR 809.563 (6) incorporated by reference? If so, that section should include cross-references to the provisions that incorporate each of these methods. Compare to s. NR 439.06 for a format that does this.

ad. Titles are not a part of the rule. However, the provisions of s. NR 809.563 (6) are not complete and cannot be understood without incorporating the titles into the provisions. For example, par. (b) should read: “(b) Bromide. For measuring bromide, EPA method 300.0 or EPA method 300.1.”

ae. There are two subsections numbered (2) in s. NR 809.565. The second of these subsections should be numbered sub. (2m).

af. The rule frequently subdivides provisions more than is necessary or appropriate. For example, it is not necessary to break out the second and third sentences of s. NR 809.565 (2) (a) as separate subdivisions; these provisions should be collapsed into par. (a). The same applies to the following four paragraphs, in particular since each paragraph is only two sentences long, resulting in an introduction and a single subdivision in each paragraph.

ag. The opening phrases of s. NR 809.565 (3) (a) 1. to 3. duplicate the opening phrase of the introduction. See the following paragraph for a model of how to avoid this duplication.

ah. In s. NR 809.565 (3) (c), should the last two occurrences of the word “and” be replaced by “or”? That is to say, do both of the standards have to be violated to trigger the requirement to resume monitoring, or just one?

ai. Text is missing from s. NR 809.565 (4) (a) 4. It appears that spaces have been left to fill in cross-references after the second occurrence of the word “by” and after the first and second occurrences of the word “under.”

aj. In most of the rule, the format of internal cross-references is incorrect. For the correct formats, see s. 1.07 (2), Manual. Note that internal cross-references never include notations such as “of this section” or “of this subsection.” For example, s. NR 809.565 (1) (a) 3. refers to “par. (7).”

A special case of the problem with internal cross-references appears throughout the middle and later portions of the rule, in which an introductory clause refers to the subunits that follow it as if they were part of a different unit of the rule. For example, s. NR 809.569 (1) (b) (intro.) refers to “the alternative compliance criteria in subds. (1) (b) 1. through 6.” Instead, it should simply refer to “the following alternative compliance criteria:”.

ak. Mandatory actions are denoted in rules by the word “shall” and permissive actions are noted by the word “may.” For example, in s. NR 809.565 (4) (a) 3. and (5) (b) 2., the phrase “is required to” should be replaced by the word “shall”; in the second-to-last sentence of s. NR 809.76 (5), the word “will” should be replaced by the word “shall”; and the three occurrences of the word “should” in s. NR 809.833 (4) (d) 5. c. and (e) on page 50 should be replaced by the word “shall” and the word “could” in s. NR 809.833 (4) (e) on page 50 should be replaced by the word “may.”

al. The last sentence of s. NR 809.565 (6) (a) 2. is explanatory rather than substantive, and so should be placed in a note.

am. There appears to be text missing from s. NR 809.566 (1) (a), following the word “bromate.”

an. The rule frequently duplicates requirements in more than one section. For example, s. NR 809.566 (2) (d) appears to simply repeat the requirements of a number of other sections.

ao. Since they relate to monitoring, s. NR 809.566 (2) (b) 2. and (c) should be in a section relating to monitoring, rather than a section relating to compliance.

ap. Section NR 809.566 (2) (d) and (e), (3) and (4) should be modified in several places to specify with what standard compliance is being determined. These appear to be further examples of relying upon titles to convey substance. Compare to s. NR 809.566 (2) (a) and (b) for examples of clearer drafting.

aq. Rules should be organized in a logical manner, moving from general to specific provisions. Requirements should be laid out in a clear, stepwise fashion. With these general rules in mind, the department may want to rethink the organization of subch. III of ch. NR 809. As an example, the following is one suggestion for how s. NR 809.569 might be reorganized:

(1) Begin with the material in sub. (2) (which would be numbered sub. (1)). The introduction to this subsection would state something to the effect of: “Except as provided in subs. (2) and (3), surface water systems using conventional filtration treatment shall use enhanced coagulation or enhanced softening. These systems shall achieve the TOC percentage removal levels specified in Table 1.” This would be followed by the table, along with sufficient explanatory material to make the table comprehensible. (As drafted, the table is not very clear.)

(2) Subsection (2) would consist of two paragraphs. The first paragraph would state: “(a) Subsection (1) does not apply to a surface water system that uses

conventional filtration treatment and that meets any of the following criteria:”. This introduction would be followed by the criteria in s. NR 809.569 (1) (b) 1. to 6. The second paragraph would give comparable treatment to what is currently drafted as s. NR 809.569 (1) (c). The statement that these systems shall still comply with monitoring requirements in s. NR 809.565 (6) should be placed in a note.

- (3) Subsection (3) would address alternative minimum TOC removal requirements. This subsection should begin with a statement of who may apply for alternative requirements and then present a stepwise process indicating how the system applies for this and how the department will review and approve the application. It should clearly distinguish between procedural provisions related to the application process and substantive requirements related to the alternative requirements imposed. Note that the references to “step 1” and “step 2” do not add anything to the clarity of the rule and should be dropped.
- (4) Subsection (4) would address compliance calculations. The introduction to par. (a) would read: “Except as provided in par. (b), a system that is subject to sub. (1) shall determine compliance as follows:”. No introduction is necessary for par. (b), as long as each subdivision makes clear the specific systems to which it applies.
- (5) What is currently drafted as sub. (4) is totally unclear; consequently, we do not have a specific recommendation of where to place that material.

ar. SECTION 22, beginning on page 35, should be modified to treat only those subunits that are actually being affected and to apply the proper treatment to them. This means that it should be broken into three SECTIONS, the first of which would amend sub. (2) (b) (intro.), the second of which would create sub. (2) (c) 8. and the third of which would amend subs. (2) (f) and (3) (a). The same comment applies to SECTION 23, beginning on page 37.

as. Section NR 809.76 (intro.) contains two commas which are not in the current rule but which are not underscored in the draft.

at. The notations “removal and/or inactivation” in s. NR 809.76 (5) should be written out as “removal or inactivation or both.”

au. Section NR 809.775 (3) (b) (intro.) should read: “Any system that is modifying its disinfection practice shall calculate its disinfection benchmark using the following procedure:”. The introduction to the following par. (d) should read: “The system shall submit the following information to the department as part of its consultation process:”.

av. The treatment clause of SECTION 27, on page 43, should read as follows: “NR 809 subch. VI is renumbered subch. VII and subch. VII (title), as renumbered, is amended to read:”.

aw. The material numbered s. NR 809.80 (4), on pages 43 and 44, should be rewritten in the active voice to clarify who is responsible for taking what actions. This is particularly important because these provisions bring in a third party, testing laboratories, in addition to the department and water system operators.

ax. The renumbering done by SECTIONS 29 and 30, beginning on page 45, suffer from all the problems described in earlier comments (including being entirely unnecessary--see s. 1.03 (7), Manual).

ay. Section NR 809.833 (4) is confusing. The department may want to consider redrafting this provision along the lines that were suggested for subch. III of ch. NR 809, making use of the active voice.

az. Section NR 809.837 (7) (a) (intro.) should read: "A system that has received a waiver under this subsection shall do all the following:". The following par. (b) should read: "A system serving 500 or fewer persons that has received a waiver under this subsection may forego"

ba. Section NR 809.90 (1) needs reorganization. First, par. (d) does not follow from the introductory language. Second, it is not clear if a public system is required to meet all of the remaining conditions to be eligible for a conditional waiver. In particular, is not clear whether it is required to meet the conditions of pars. (a) and (b) simultaneously.

bb. Section NR 809.90 (2) (c) to (e) do not follow from the preceding introductory material.

bc. The definitions of "other than municipal community water system" and "non-transient non-community water system" in ss. NR 114.01 and 114.28 should be placed in their proper alphabetical order relative to other defined terms, and not in paragraphs within the definition of "water system."

bd. Section NR 114.07 (5) should be reorganized as follows: what is now introductory material should be numbered par. (a) and the notation "of par. (b)" should be inserted in the first sentence after the phrase "continuing education requirements"; a par. (b) (intro.) should be created to read: "Applicants shall meet the following continuing education requirements:"; pars. (a) to (c) should be numbered par. (b) 1. to 3.; and par. (d) should be numbered par. (c).

be. Section NR 114.28 duplicates many of the definitions contained in the other subchapters of chapter NR 114. To minimize duplication, the department may want to consider creating a single section of definitions that would apply to the entire chapter.

bf. SECTION 2 on page 81 incorrectly identifies the section being amended--it should indicate that it is amending s. NR 811.05 (2) (a). Also, note that only the introduction and subd. 5. of that paragraph are amended, so only those subunits should be included in this SECTION.

bg. The treatment of s. NR 811.29 (1) (h) does not appear to have any substantive impact. However, it does take language that is drafted correctly and make it ungrammatical relative to

the introduction that precedes it. The treatment of par. (i) creates the same grammatical problem.

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

a. In s. NR 809.561 (1) (c), the reference to “1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act (Pub. L. 93-523)” should be replaced by a reference to the U.S. Code. Also, see s. NR 809.04 (43).

b. The cross-reference in s. NR 809.565 (7) (a) appears to be incorrect. The cross-reference in s. NR 809.566 (1) (d) also appears to be incorrect.

c. The first cross-reference in s. NR 809.566 (3) (b) 2. should be to s. NR 809.565 (5) (b) 1.

d. The first cross-reference in s. NR 809.566 (4) should be to s. NR 809.569 (3).

e. The cross-reference in s. NR 809.567 (1) appears to be overly broad. Can the department more specifically identify the provisions of s. NR 809.563 that are being superseded by this section?

f. The first cross-reference in s. NR 809.567 (4) (b) (intro.) should be to s. NR 809.565 (6) (a).

g. The existing references to “these regulations” in s. NR 809.75 (1) should be replaced by a more specific reference, such as “this subchapter” or “s. NR 809.xx.”

h. The existing reference to the definition of “effective corrosion inhibitor residual” in s. NR 809.75 (1) seems inappropriate. In what way does this definition state site-specific measurements of water quality characteristics? Is effective corrosion inhibitor residual an example of such a measurement? This should be clarified.

i. The second cross-reference in s. NR 809.755 (2) (f) is obviously incomplete--further evidence that this rule is not a finished product.

j. The cross-reference in s. NR 809.83 (6) (intro.) is incorrect--there is no such section.

k. The cross-reference in s. NR 809.90 (2) (c) 2. is far wide of the mark--it relates to the labeling of fertilizer, not bottled water supplies.

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

a. In the definition of “enhanced coagulation,” on page 9, what constitutes “sufficient” coagulant?

b. Section NR 809.26 (1) (i) includes the phrase “as specified by the department.” How or where will the requirements to which that phrase refers be specified? There are several similarly vague provisions in the rule.

c. Section NR 809.565 (1) (a) (intro.) claims that the paragraph will address maximum contaminant levels, monitoring, analytical requirements and control of disinfectant byproducts. In fact, the paragraph addresses only monitoring, and so the introduction should be scaled back accordingly. However, no introduction is actually needed for that material, and so the introduction could be omitted and each of the subdivisions raised to the level of a paragraph.

d. The significance of s. NR 809.565 (1) (a) 2. is unclear, in particular since the terms “system” and “treatment plant” are undefined.

e. Should the title of s. NR 809.565 (6) (c) read “Bromate” rather than “Bromide,” since that paragraph relates primarily to monitoring for bromate?

f. The first sentence of s. NR 809.565 (7) (c) should be written as follows: “The department may require a system that is not subject to the monitoring requirements of this subchapter to prepare a plan under this subsection.”

g. The word “For” at the beginning of each paragraph of s. NR 809.567 (2) and (3) is grammatically incorrect and should be omitted.

h. Section 809.567 (4) (intro.) does not make sense. It appears to require “disinfection byproduct precursors” to file reports.

i. There are a number of references to CaCO, particularly in s. NR 809.569. Should the references be to CaCO₃?

j. The department does not consistently describe the use of enhanced coagulation or enhanced softening systems. In s. NR 809.569 (1) (a), the rule uses the phrase “operate with enhanced coagulation or enhanced softening”; in par. (c) of that section, the rule uses the phrase “practicing enhanced softening.” Why not simply say “using” or “implementing”?

k. In s. NR 809.569 (1) (b) 3., both occurrences of the phrase “the effective date for compliance” should be replaced by the phrase “the applicable compliance date specified in.”

l. Section NR 809.569 (1) (b) 4. should begin with the phrase: “The system submits evidence” This subdivision also refers to “installation and operation of appropriate technologies”--technologies to do what? This should be clarified.

m. Section 809.569 (1) (c) contradicts itself. The first sentence of that paragraph states that it applies to systems that cannot achieve the step 1 TOC removals, while the last sentence requires these systems to meet the step 1 TOC removals pending approval of an alternative minimum TOC removal requirements.

n. The punctuation in s. NR 809.569 (3) (b) 1. is incorrect.

o. Section NR 809.755 (2) (c) 8. is grammatically incorrect. It appears that the word “whether” should be omitted.

p. The text that is inserted into s. NR 809.76 (1) (a) is ungrammatical. It should read: “Beginning January 1, 2002, the turbidity level of representative samples of filtered water of a system serving at least 10,000 people and using conventional filtration shall be” The same applies to similar language in subsequent provisions.

q. Section NR 809.775 creates a number of deadlines which either are already passed or will be passed by the time this rule can take effect. Is this intended?

r. Is there a penalty for violation of s. NR 809.80 (12)?

s. In the last sentence of s. NR 809.83 (1) (intro.), the word “and” should be replaced by the word “an.”

t. A more appropriate title for s. NR 809.83 (2) would be “DEADLINES.”

u. Sections NR 809.833 and 809.835 specify precise language that must be included in consumer confidence reports. This intent might be clearer if the language to be included in the reports were shown within quotation marks.

v. The extent of the requirement in s. NR 809.83 (8) (c) is unclear. For example, if five different non-English speaking groups each comprised 1% of the population of a community, would the water utility be required to prepare the report in each of those five languages? If this is not the intent, this provision might be reworded to require that the report be translated into the language of any non-English speaking group that comprises at least 5% of the population of the community served.

w. Presumably, the term “Primacy Agency,” used in s. NR 809.835 and 809.837, derives from Environmental Protection Agency guidance documents and refers to the department. This should have been changed in the editing of the draft rule.

x. Section NR 809.837 (7) (intro.) should be modified to refer to “his or her designee.”

y. Section NR 809.90 (4) does not make sense. Subsection (1) establishes that public water systems may obtain waivers of compliance for up to three years. Subsection (4) then specifies that the department may extend a compliance deadline for up to three years after the date a conditional waiver is granted. How is this different from the conditional waiver itself?

z. The purpose and application of Appendices A to C to ch. NR 809 are not entirely obvious. Some explanatory text with each of these appendices would be helpful.

aa. The heading of the second column of the table in Appendix A to ch. NR 809 states that the column is the MCLs, in “compliance units,” which it states are in mg/L. However, at least some MCLs are in units that cannot be converted to mg/L, such as those that are in pCi/l or mrem/yr.

ab. The headings of the fourth and fifth columns of Appendix A to ch. NR 809 state that entries in those columns are in “CCR units”; however, the term “CCR unit” is neither defined nor explained in the key.

ac. The department may wish to number the subheadings in Appendices A and B to ch. NR 809. This would allow the department to make future amendments to the appendices by referring to the specific line in each table, without having to reproduce the entire table.

ad. There are no units specified for the second and third columns of the table in Appendix B to ch. NR 809.

ae. The term “other than municipal community water system” in ch. NR 114 is unnecessarily cumbersome. Why not simply say “nonmunicipal community water systems”?

af. The term “direct responsible charge” is a noun, but s. NR 114.28 (5) defines it as a verb. A more appropriate definition might be “the responsibility to provide detailed direction”

ag. The definition of “owner” in s. NR 114.28 (8) should simply say “a person who owns or operates a water system.”

ah. It is unclear what effect the amendment to s. NR 811.01 will have if it is not accompanied by amendments of the pertinent definitions and specific provisions of that chapter.

ai. The treatment of s. NR 811.10 (2) is confusing. In the introduction, it is unclear why the word “a” is being stricken and it is unclear to what “of no more than 5 years” refers. In par. (a), what is a “safe sample”?

aj. Section NR 811.33 (2) (Note) would be clearer if written as follows: “When applying figure no. 1 to apartment units, condominium units and mobile homes, the number of homes may be reduced by one-third.” Also, should this reduction be permissive or mandatory (may vs. shall)?