

US EPA ARCHIVE DOCUMENT

Plain Language Guidance for EPA Employees

December 31, 1998

MEMORANDUM

SUBJECT: Plain Language Effective for Rules on January 1, 1999

TO: Assistant Administrators
General Counsel
Inspector General
Chief Financial Officer
Associate Administrators
Regional Administrators
Staff Office Directors

On January 1, 1999, the President's Memorandum on Plain Language will take effect for regulations. At that time, we must use plain language in every proposed and final rule published in the *Federal Register*, unless the rule appeared in proposed form prior to January 1. This memo:

- C reminds you of the January 1 deadline,
- C transmits preliminary guidance (see Attachment A),
- C provides an example of a rule written in plain language (see Attachment B), and
- C gives you notice of an upcoming workshop (see Attachment C).

At the next Regulatory Policy Council meeting we will discuss the preliminary guidance and other plain language issues, including implementation of the President's directive (which took effect October 1, 1998) that we use plain language in all new documents, other than regulations, that explain how to obtain an EPA benefit or service or how to comply with a requirement EPA administers or enforces.

Evaluating the results of our plain language efforts and getting early feedback on readability is key. **But our minimum standard for success should be a common sense one: can someone who is not involved in the rulemaking understand it *after one reading*?** Again, I refer you to Attachment B as an example of a rule that is easy to read and understand.

The Administrator has designated Jay Benforado, Acting Associate Administrator for the Office of Reinvention, as the senior official responsible for implementing the President's Memorandum. I encourage you to contact the Office of Reinvention for assistance in complying with plain language issues.

I look forward to seeing our progress toward plain language in the coming year.

[signed 12/31/98]

Peter D. Robertson
Acting Deputy Administrator

Attachments

cc: Regulatory Policy Council representatives
Regulatory Development Steering Committee

Preliminary Plain Language Guidance

This document addresses expectations for plain language in rules, and provides preliminary guidance on how to focus Agency efforts. In particular, it provides Agency guidance on how to:

- C identify which rules merit special attention
- C select plain language techniques for the greatest impact
- C apply these techniques to rules at different stages of development
- C focus on *parts* of a rule that may need special attention

What rules merit special attention for plain language?

While each headquarters and regional office is individually responsible for complying with the plain language directive, the following categories of rules merit our particular attention:

Rules that:

- C exceed the Regulatory Flexibility Act’s threshold for a “significant impact on a substantial number of small entities” (includes small businesses and small communities).
- C are of general interest to small entities, even if not rising to the level of “significant impact.”
- C have a broad audience or high visibility. For example, those that are economically significant (i.e., more than \$100 million in impact) or are Agency Tier 1 rules.
- C rules that stakeholders or co-implementors have told you are difficult to understand.

How do I select plain language techniques for the greatest impact?

If you use the NPR handbook “Writing User Friendly Documents” (www.plainlanguage.gov), you will meet the President’s expectations for plain language. Two plain language principles make the greatest impact on our rules. They are easiest to apply when you **begin** writing a rule.

1. Organizing for the reader’s concerns. Question and answer format is the clearest way. It is encouraged but not required.
2. Referring to the reader as “you.”

You can use other techniques at any stage of development without creating a dramatic shift in organization and inconsistency. Examples include:

- Breaking up a long regulatory text section(s) into several shorter ones
- Converting requirements into examples, lists, charts, or tables (such as “if-then” tables)
- Creating more headings to help the reader navigate through text
- Changing passive voice to active voice

- Shortening sentences
- Avoiding unnecessary “jargon” or bureaucratic words

How do I apply these techniques?

For rules started after June 1, 1998, or rules which aren’t substantially written yet:

You should use as many of these techniques as possible, with special attention to the first two plain language principles listed above. (See Attachment B for an example rule).

For rules which were underway prior to June 1, 1998 and which are substantially written:

You should use those techniques that your draft can accommodate. The goal here is to improve readability.

What *parts* of a rule need special attention?

Regulatory Text

Improved regulatory (codified) text is the priority for plain language efforts. It yields greater benefits because, unlike the preamble, it’s published year after year in the Code of Federal Regulations. If you write the regulatory text well, you will not need to “explain” it in the preamble.

- C Try to select a significant block of text, such as a Part or a Subpart (*for example, Part 25, or Subpart A*).
- C You can make improvements to blocks of text as small as Sections (*for example, §25.1, 25.2, etc.*). The Agency can accept inconsistency for the sake of incremental improvement.
- C The handbook “Writing Readable Regulations” by Tom Murawski has good information on drafting regulatory text.¹

The Preamble

For the SUMMARY: The SUMMARY is the reader’s first overview of what a rule is, why we’re publishing it, and what it’s intended to accomplish. Continue to follow EPA’s 1994 guidance for the SUMMARY.¹ **Don’t** use lists, numbering, or alternative formatting conventions here, but other techniques are fine.

For the SUPPLEMENTARY INFORMATION section and the rest of the preamble, you can and should use the full range of plain language techniques.

For Agency templates on Administrative statutes and Executive Orders (for example, Unfunded Mandates Reform Act, E.O. 12866, etc.): please continue to use existing template language until an

¹You can contact Karen Burgan at 202-260-8982 for copies of these documents.

Agency workgroup completes a revision in coordination with OGC.¹

Excerpt from EPA Plain Language Rule

In its Class V Underground Injection Control rule, the Office of Water made some amendments to the CFR in the old style, but in addition created a new subpart to pull together related information that was scattered throughout the CFR. They thought of the questions their primary readers were most likely to ask, and then created section headings to address these questions. The reader is addressed as “you.” This excerpt was the result:

What resources are available to my office?

Upcoming Workshop Training (week of January 11)

Training is a key element in EPA's plain language strategy. During the week of January 11, the Office of Reinvention will host one or more Agency-wide workshops on Plain Language.

We're still determining the shape of the workshop(s). We welcome suggestions you have on how to best meet the Agency's needs. We'll give you more information through the Regulatory Development Steering Committee.

Web resources

The Plain Language Action Network (PLAN) of the National Performance Review has a Website (www.plainlanguage.gov) which includes the memoranda from the President and Vice President, example documents, upcoming training programs, events, contacts, and background documents.

The Office of Reinvention will also post plain language resources on its website, including examples of EPA plain language rules. We will notify you through the Regulatory Development Steering Committee when the website is ready.

Agency contact for plain language issues

Please contact Karen Burgan, in the Office of Reinvention (OR), to discuss issues that arise as you implement the President's memorandum. You can reach Karen at 202-260-8982.