

Federal Plain Language Guidelines

Plain Language.gov
Improving Communication from
the Federal Government to the Public

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Introduction

The Plain Language Action and Information Network is a community of interest of mainly federal employees dedicated to the idea that citizens deserve clear communications from government. We first developed this document in the mid-90s. Ten years later, we decided it was time to revise it. Based on those 10 years of experience, there were pieces of advice we no longer wanted to give, and there were others we wanted to add. We hope you find this document useful, and that it helps you improve your writing—and your agency's writing—so your readers can:

- find what they need,
- understand what they read; and
- use it to fulfill their needs.

We've divided the document into four major topics, although many of the subtopics fit within more than one topic. We start with a discussion of your audience, because you should think about the audience before you start to write—in fact, before you start to plan—your document. From there we move to organization, because developing a good organization is important during your planning stage. Next, we discuss writing principles, starting at the word level and moving up through paragraphs and sections. This is the most extensive topic. We conclude with a short discussion of testing techniques.

When we first wrote this document, we were primarily interested in regulations. We've broadened our coverage, but the document still bears the stamp of its origin. If you have a suggestion about something we should add to address other types of writing, or have a comment on this version, email "acheek@patriot.net".

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Identify and write for your audience

You have to grab your reader's attention if you want to get your ideas across. Let's face it, readers want to know just what applies to them. The best way to grab and hold their attention is to figure out who they are and what they want to know. Put yourself in their shoes; it will give you a new perspective.

Tell your readers why the material is important to them. Say, "If you want a research grant, here's what you have to do." Or, "If you want to mine federal coal, here's what you should know." Or, "If you are planning a trip to Rwanda, read this first."

Identifying your audience will do more than ensure that you write clearly. It will also help you focus on the reader's needs. Start out by thinking about what your reader knows about the situation now. Then, think about how to guide them from their current knowledge to what you need them to know. To help you do this, try answering the following questions:

- Who is the reader?
- What does the reader already know about the subject?
- What questions will the reader have?
- What's the best outcome for my agency? What do I need to say to get this outcome?
- What's the best outcome for the reader? What do I need to say to get this outcome?

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 93-6.
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, p. 9.

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Address separate audiences separately

An important part of writing for your audience is addressing separate audiences separately. Many documents address more than one audience. Documents that mix material intended for different audiences may confuse readers. By addressing different audiences in the same place, you make it harder for each audience to find the material that applies to them. In regulations, this may make it difficult for each audience to comply with your agency's requirements.

The following example shows a regulation that treats each regulated group separately in its own subpart, rather than mixing all the groups together in the same subpart. For an example of a rule that does not address separate groups separately, see 5 CFR 1320.

Title 40—Protection of Environment

Chapter I—Environmental Protection Agency

Part 745—Lead-Based Paint Poisoning Prevention In Certain Residential Structures

* * *

Subpart E—Residential Property Renovation

(Firms renovating structures)

* * *

745.84 Confidential business information.

745.85 Information distribution requirements.

745.86 Recordkeeping requirements.

* * *

Subpart F—Disclosure Of Known Lead-Based Paint And/Or Lead-Based Paint Hazards Upon Sale Or Lease Of Residential Property

(Sellers/Leasors)

- 745.107 Disclosure requirements for sellers and lessors.
- 745.110 Opportunity to conduct an evaluation.
- 745.113 Certification and acknowledgment of disclosure.

* * *

Subpart L—Lead-Based Paint Activities

(Training programs)

- 745.225 Accreditation of training programs: target housing and child-occupied facilities.
- 745.226 Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities.
- 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.
- 745.228 Accreditation of training programs: public and commercial buildings, bridges and superstructures.

* * *

Subpart Q—State And Indian Tribal Programs

(States and Tribes)

* * *

- 745.324 Authorization of State or Tribal programs.
- 745.325 Lead-based paint activities: State and Tribal program requirements.
- 745.326 Pre-renovation notification: State and Tribal program requirements.
- 745.327 State or Indian Tribal lead-based paint compliance and enforcement programs.

Sources

- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, p. 4.
- Redish, Janice C., *How to Write Regulations and Other Legal Documents in Clear English*, 1991, American Institutes for Research, Washington, DC, p. 17.

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Organize to meet your readers' needs

People read documents to get answers. They want to know how to do something or what happens if they don't do something. Organize your document to respond to these concerns.

Think through the questions your readers are likely to ask and then organize your material in the order they'd ask them. For regulations and other complex documents, create a comprehensive table of contents. Your table of contents should be a reliable road map that readers can follow to quickly find the information they need.

Chronological organization

Regulations frequently address processes, and chronological organization is best for process information--you fill out an application to get a benefit, you submit the application, the agency reviews the application, the agency makes a decision on the application. Present the steps chronologically, in the order the reader and your agency will follow them. The table of contents below is organized in a logical sequence for a grant program.

| Organized chronologically |
|---|
| Part 791: Gifted and Talented Students |
| Subpart A: How the Grant Program Works |
| Sec. |
| 791.1 What is the Gifted and Talented Students Education Program? |
| 791.2 Am I eligible for a grant? |
| 791.3 What activities are appropriate for grant funding? |
| Subpart B: How to Apply for an Award |
| 791.10 Where do I write to obtain a grant application? |
| 791.11 What materials do I need to submit to be considered for a grant? |

| Organized chronologically |
|--|
| <p>791.12 Where do I send my application? 791.13 When is my application due?</p> <p>Subpart C: How the Secretary Makes an Award</p> <p>791.20 How will the Secretary evaluate my application? 791.21 What selection criteria does the Secretary use?</p> <p>Subpart D: Grantees' Rights and Responsibilities</p> <p>791.30 Under what conditions may I use my grant award? 791.31 What are my responsibilities for serving students and teachers in private schools?</p> |

General first, exceptions, conditions, and specialized information later

Another useful organizing principle is to put general information first, specialized information or exceptions to the general information later. That way the material that addresses most users in most situations comes first. For some documents this will work well along with a chronological organization. In others, it may be the primary organizing principle.

Here's an example of an administrative regulation that combines both organizing principles:

| Organized chronologically, and with general first |
|---|
| <p>Part 725--Claims For Benefits Under The Federal Mine Safety And Health Act</p> <p>General</p> <p>725.1 What does this program cover? 725.2 What special terms do I need to know to understand this part?</p> <p>Who is Covered</p> <p>725.201 Who is entitled to benefits under this program? 725.202 How long can my benefits last?</p> |

Organized chronologically, and with general first

725.203 Are my dependents entitled to benefits?

725.204 How long will their benefits last?

725.205 Am I still eligible if I am convicted of a felony?

How to Apply for Benefits

725.301 How do I file a claim?

725.302 Can other people give evidence on my behalf?

725.303 Are there any time limits for filing my claim?

725.304 Can I modify or withdraw my claim?

How to Appeal Agency Decisions

725.401 Can I appeal a decision if I don't agree with it?

725.402 How do I file an appeal?

725.403 How long do I have to file an appeal?

725.404 What types of evidence must I submit?

725.405 What happens if I won't get a medical examination?

Limit levels to three or fewer

Crafting documents with four, five, or even more levels makes it difficult for your readers to keep track of where they are in the structure of your document. You should address this problem in your initial structuring of the document. Dividing your document into more pieces at the top levels should allow you to limit subdivisions below the major level to two. The Office of the Federal Register recommends that regulations contain no more than three levels, noting that more than three levels makes regulations hard to read and use.

Address separate audiences separately

If you have more than one audience for your document, address them separately. No one wants to have to wade through material meant for someone else. For more discussion of this issue, see the entry on addressing separate audiences separately.

Sources

- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, p. 70 (C).
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 3-5.
- Office of the Federal Register, *Document Drafting Handbook*, 1998, §1-23, <http://www.archives.gov/federal-register/write/handbook/ddh.pdf>.
- Redish, Janice C., *How to Write Regulations and Other Legal Documents in Clear English*, 1991, American Institutes for Research, Washington, DC, pp. 12-21.
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, p. 15.

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Address one person, not a group

Remember that even though your document may affect a thousand or a million people, you are speaking to the one person who is reading it. When your writing reflects this, it's more economical and has a greater impact.

Singular nouns and verbs prevent confusion about whether a requirement applies to individual readers or to groups. In the following example, the reader might think that each applicant must file applications at several offices.

| Confusing plural | Clearer singular |
|--|---|
| Individuals and organizations wishing to apply must file applications with the appropriate offices in a timely manner. | You must apply at least 30 days before you need the certification. <ol style="list-style-type: none">a. If you are an individual, apply at the State office in the State where you reside.b. If you are an organization, apply at the State office in the State where your headquarters is located. |

In addressing a single person, you can avoid awkwardness by using “you” to address the reader directly, rather than using “his or her” or “he or she.”

| Confusing plural | Clearer singular |
|---|--|
| The applicant must provide his or her mailing address and his or her identification number. | You must provide your mailing address and identification number. |

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, p. 114.
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, p. 70.
- Wydick, Richard, *Plain English for Lawyers*, 5th edition, 2005, Carolina Academic Press, Durham, NC, p. 62.

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Use lots of useful headings

The best-organized document will still be difficult for readers to follow if they can't see how it's organized. An effective way to reveal your document's organization is to use lots of useful headings.

Types of headings

There are three types of headings—

| Type of heading | What it is | How it looks |
|-------------------|--|------------------------------|
| Question Heading | A heading in the form of a question | Why Do We Use Headings? |
| Statement Heading | A heading that uses a noun and a verb | Headings Help Guide a Reader |
| Topic Heading | A heading that is a word or short phrase | Headings |

Question Headings are the most useful, but only if you know what questions your readers would ask. Most readers come to government documents with questions. If you know those questions and use them as headings you will help readers find the information they are looking for quickly. Using the question-and-answer format helps your reader scan the document and find specific information.

Statement Headings are the next best choice because they are still very specific. Topic Headings are the most formal so many times management is more comfortable with them. But sometimes they're so vague that they just aren't helpful. Topic Headings such as "General," "Application," and "Scope" are so vague they may confuse the reader. For example, "Application" might mean an application to your agency from someone reading your document. But it might as easily mean what the document applies to.

| Short headings that aren't very helpful to the reader | Informative headings capture the reader's questions |
|--|---|
| <p>§ 254.11 Indian Rights.</p> <p>§ 254.12 Applications.</p> <p>§ 254.13 Multi-tribal grants.</p> <p>§ 254.14 Administrative requirements.</p> <p>§ 254.15 Appeals</p> | <p>§254.11 How do the procedures in this part affect Indian rights?</p> <p>§ 254.12 How do I apply for a grant under this part?</p> <p>§ 254.13. When must I submit my application?</p> <p>§ 254.14 Can a multi-tribal organization submit a single grant request?</p> <p>§ 254.15 What special information do I need for an application by a multi-tribal organization?</p> <p>§ 254.16 Must each tribe in a multi-tribal organization submit certification forms and budgets?</p> <p>§ 254.17 If I receive a grant under this part, what requirements must I follow?</p> <p>§ 254.18 What reports must I submit after receiving a grant?</p> <p>§ 254.19 How can I appeal administrative actions under this part?</p> |

In the example above, the section headings in the right column are more informative than the short topic headings in the left column. Additionally, breaking the material into more sections allows us to capture the entire content of each section in its heading. A document with lots of informative headings is easy to follow because the headings break up the material into logical, understandable pieces.

Use headings to help develop your document's structure

It's often useful to start writing your document by developing the headings, structuring them to your readers' concerns. This approach can also reveal major groupings of information that you might want to identify with centered headings.

| Broad topic headings are the first step in organizing the document | Specific topics add the second level of organization |
|--|---|
| <p>Qualifications of permittees and lessees</p> | <p>Who may hold leases and permits? Can foreign citizens hold permits or leases? How do I file evidence of my</p> |

| Broad topic headings are the first step in organizing the document | Specific topics add the second level of organization |
|---|--|
| | qualifications? Can I amend my qualifications statement? |
| Bonding requirements | Must I file a bond with my permit or lease? Where do I file my bond? What types of bonds are acceptable? How does BLM establish bond amounts? When does BLM terminate my liability under a bond? |

Headings can be too long

Headings should not be so long that they overwhelm the material in the section itself. Avoid headings with one-word answers. With rare exceptions, headings should be shorter than the content that follows them.

| Heading overwhelms content | Content should be longer than headings |
|---|---|
| Do I have to file a newspaper notice of my activities before I begin operations? Yes. | Must I publish a public notice? You must publish a notice of your operations in a local newspaper before you begin. |

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, p. 14-16.
- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, p. 70 (C).
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 10-12, 27.
- Office of the Federal Register, *Document Drafting Handbook*, 1998, MMR-2.
<http://www.archives.gov/federal-register/write/handbook/>.

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Write short sections

Short sections break up material so it appears easier to comprehend. Long, dense sections with no white space are visually unappealing, and give the impression your document is difficult to understand. Short sections appear easier to comprehend, and help you organize your document more effectively.

Short sections also give you more opportunity to insert informative headings in your material. Remember that boldface section headings give your reader the best roadmap to your document. Long sections are impossible to summarize meaningfully in a heading. When you write short sections, each heading can give the reader information about the entire contents of the section.

| Long, dense paragraph | Shorter paragraphs, easier to follow |
|---|--|
| <p>§ 2653.30 Native group selections.</p> <p>(a) Selections must not exceed the amount recommended by the regional corporation or 320 acres for each Native member of a group, or 7,680 acres for each Native group, whichever is less. Native groups must identify any acreage over that as alternate selections and rank their selections. Beyond the reservations in sections 2650.32 and 2650.46 of this Part, conveyances of lands in a National Wildlife Refuge are subject to the provisions of section 22(g) of ANCSA and section 2651.41 of this chapter as though they were conveyances to a village</p> | <p>§ 2653.31 What are the selection criteria for Native group selections and what lands are available?</p> <p>You may select only the amount recommended by the regional corporation or 320 acres for each Native member of a group, or 7,680 acres for each Native group, whichever is less. You must identify any acreage over 7,680 as alternate selections and rank their selection.</p> <p>§ 2653.32 What are the restrictions in conveyances to Native groups?</p> <p>Beyond the reservations described in this part conveyances of lands in a National Wildlife Refuge are subject to section 22(g) of ANSCA as though they were conveyances to a village.</p> <p>§ 2653.33 Do Native group selections have to</p> |

| Long, dense paragraph | Shorter paragraphs, easier to follow |
|--|--|
| <p>corporation.</p> <p>(b) Selections must be contiguous and the total area selected must be compact except where separated by lands that are unavailable for selection. BLM will not consider the selection compact if it excludes lands available for selection within its exterior boundaries; or an isolated tract of public land of less than 640 acres remains after selection. The lands selected must be in quarter sections where they are available unless exhaustion of the group's entitlement does not allow the selection of a quarter section. The selection must include all available lands in less than quarter sections. Lands selected must conform as nearly as practicable to the United States lands survey system.</p> | <p>be contiguous?</p> <p>Yes, selections must be contiguous. The total area you select must be compact except where separated by lands that are unavailable for selection. We will not consider your selection if:</p> <p>(a) It excludes lands available for selection within its exterior boundaries; or</p> <p>(b) An isolated tract of public land of less than 640 acres remains after selection.</p> <p>§ 2653.34 How small a parcel can I select?</p> <p>Select lands in quarter sections where they are available unless there is not enough left in your group's entitlement to allow this. Your election must include all available lands in areas that are smaller than quarter sections. Conform your selection as much as possible to the United States land survey system.</p> |

Sources

- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, pp. 11, 165-174.
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 9-10.

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Use active voice

Active voice makes it clear who is supposed to do what. It eliminates ambiguity about responsibilities. Not: “It must be done.” But, “You must do it.” Passive voice, which obscures who is responsible for what, is one of the biggest problems with government documents.

In an active sentence, the person or agency that’s acting is the subject of the sentence. In a passive sentence, the person or item that is acted upon is the subject of the sentence. Passive sentences often do not identify who is performing the action.

| Passive voice | Active voice |
|---|--|
| The lake was polluted by the company. | The company polluted the lake. |
| New regulations were proposed. | We proposed new regulations. |
| The following information must be included in the application for it to be considered complete. | You must include the following information in your application. |
| Bonds will be withheld in cases of non-compliance with all permits and conditions. | We will withhold your bond if you don’t comply with all permit terms and conditions. |
| Regulations have been proposed by the Department of Veterans Affairs. | We have proposed regulations. |
| The permit will be approved by the agency’s State office. | Our State office must approve your permit. |

More than any other writing technique, using active voice and specifying who is taking an action will change the character of our writing.

How do you identify passive sentences? Passive sentences have two basic features, although both may not appear in every passive sentence.

- A past participle (generally with “ed” on the end); and

- A form of the verb “to be.”

In a very few instances, passive voice may be appropriate. For example, when one action follows another as a matter of law, and there is no actor (besides the law itself) for the second action, a passive sentence may be the best method of expression. You might also use passive when it doesn't matter who is doing an action.

| |
|--|
| Use passive voice when the law is the actor |
|--|

| |
|--|
| If you do not pay the royalty on your mineral production, your lease will be terminated. |
|--|

Sources

- Garner, Bryan A., *A Dictionary of Modern Legal Usage*, 2nd edition, 1995, Oxford University Press, Oxford and New York, pp. 643-644.
- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 24-6.
- Garner, Bryan A., *Garner's Modern American Usage*, 2003. Oxford University Press, Oxford and New York, pp. 892-3.
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 73-75.
- Office of the Federal Register, *Document Drafting Handbook*, 1998, p. MMR-5.
<http://www.archives.gov/federal-register/write/handbook/ddh.pdf>.
- Redish, Janice C., *How to Write Regulations and Other Legal Documents in Clear English*, 1991, American Institutes for Research, Washington, DC, p. 26.
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, pp. 19 –20.

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Use the simplest form of a verb

The simplest—and strongest—form of a verb is present tense. A document written in the present tense is more immediate and less complicated. Using the present tense makes your document more direct and forceful. The more you use conditional or future tense, the harder your reader has to work to understand your meaning. Writing entirely in the present tense saves your reader work and helps make your point clearly.

| Don't say | Say |
|---|--|
| These sections describe types of information that would satisfy the application requirements of Circular A-110 as it would apply to this grant program. | These sections tell you how to meet the requirements of Circular A-110 for this grant program. |

Even if you are covering an event that occurred in the past, you can clarify the material for your reader by writing as much as possible in the present tense.

| Don't say | Say |
|---|--|
| Applicants who were Federal employees at the time that the injury was sustained should have filed a compensation request at that time. Failure to do so could have an effect on the degree to which the applicant can be covered under this part. | You may not be covered under this part if: a. You were a Federal employee at the time of the injury; and b. You did not file a claim at that time. |

Occasionally, of course, you may need to use other tenses. For example, NEPA documents frequently refer to what may happen in the future if certain events occur. But use tenses other than the present only when necessary for accuracy.

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Avoid hidden verbs

Use the strongest, most direct form of the verb possible.

Verbs are the fuel of writing - they give your sentences power and direction. They enliven your writing and make it more interesting. Too often, we hide verbs by turning them into nouns, making them less effective and using more words than we need. Hidden verbs are a particular problem in bureaucratic writing.

What are hidden verbs?

A hidden verb is a verb converted into a noun. It often needs an extra verb to make sense. So we write, "Please make an application for a personal loan" rather than "Please apply for a personal loan."

Hidden verbs come in two forms. Some have endings such as *-ment*, *-tion*, *-sion*, and *-ance* or link with verbs such as *achieve*, *effect*, *give*, *have*, *make*, *reach*, and *take*. Often, you will find a hidden verb between the words "the" and "of."

| Hidden Verb | Uncovered |
|--|---|
| To trace the missing payment, we need to carry out a review of the Agency's accounts so we can gain an understanding of the reason the error occurred. | To trace the missing payment, we need to review the Agency's accounts so we understand the reason the error occurred. |
| If you cannot make the payment of the \$100 fee, you must make an application in writing before you file your tax return. | If you cannot pay the \$100 fee, you must apply in writing before you file your tax return. |
| This means we must undertake the calculation of new figures for the congressional hearing. | This means we must calculate new figures for the congressional hearing. |
| The production of accurate statistics | Producing accurate statistics is important to |

| Hidden Verb | Uncovered |
|--|--|
| is important for the committee in the assessment of our homelessness policy. | the committee in assessing our policy on homelessness. |

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, p. 38 (14.)
- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC., p. 71 (D.4).
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC., p. 21.
- Wright, Nick, at <http://plainlanguage.gov/howto/wordsuggestions/hiddenverbs.cfm>.

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Use “must” to indicate requirements

The word “must” is the clearest way to convey to your readers that they have to do something. “Shall” is one of those officious and obsolete words that has encumbered legal style writing for many years. The message that “shall” sends to the reader is, “this is deadly material.” “Shall” is also obsolete--when was the last time you heard it used in everyday speech?

Besides being outdated, “shall” is imprecise. It can indicate either an obligation or a prediction. Dropping “shall” is a major step in making your document more reader-friendly. Don’t be intimidated by the argument that using “must” will lead to a lawsuit. Many agencies already use the word “must” to convey obligations. The US Courts are eliminating “shall” in favor of “must” in their Rules of Procedure. One example of these rules is cited below.

Richard Wydick (2005), a noted legal writing scholar, recommends the following substitutions:

| To express | Use |
|------------------------------------|----------|
| is required to | must |
| is required not to, is not allowed | must not |
| has discretion to, is permitted to | may |
| is not permitted to | may not |
| ought to | should |
| future contingency | will |

The following example demonstrates how much clearer language can be if you follow these suggestions.

| Don’t say | Say |
|---|---|
| Section 5511.1 Free Use of Timber on Oil and Gas Leases | Section 5511.1 Free Use of Timber on Oil and Gas Leases |

| Don't say | Say |
|--|--|
| <p>a. Any oil or gas lessee who wishes to use timber for fuel in drilling operations shall file an application therefor with the officer who issued the lease.</p> <p>b. The applicant shall be notified by registered mail in all cases where the permit applied for is not granted, and shall be given 30 days within which to appeal such decision.</p> <p>c. Where the land is occupied by a settler, the applicant shall serve notice on the settler by registered mail showing the amount and kind of timber he has applied for.</p> | <p>a. You must file an application to use the timber on your oil or gas lease for fuel. File the application with our office where you got your lease.</p> <p>b. We will notify you by registered mail if we reject your application. You must file an appeal of that decision within 30 days.</p> <p>c. You must notify any settler, by registered mail, that you have applied to use timber from your lease. Include in your notice the amount and the kind of timber you intend to use as fuel.</p> |

Many legal scholars have written about the problem of “shall.” Read a brief summary of several arguments at:

<http://www.plainlanguage.gov/howto/wordsuggestions/shallmust.cfm>.

Sources

- Garner, Bryan A., *A Dictionary of Modern Legal Usage*, 2nd edition, 1995, Oxford University Press, Oxford and New York, pp. 939-42.
- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 105-6.
- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, pp. 159-60.
- US Courts, *Federal Rules of Appellate Procedure*, 2005, US Government Printing Office, Washington, DC. <http://judiciary.house.gov/media/pdfs/printers/109th/appel2005.pdf>.
- Wydick, Richard, *Plain English for Lawyers*, 5th edition, 2005, Carolina Academic Press, Durham, NC, p. 64.

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Use contractions when appropriate

While many legal authorities say that contractions don't belong in legal writing, Bryan Garner, a leading authority on legal writing, advocates their use as a way to make legal writing, including opinions and rules, less stuffy and more natural. Contractions make your writing more accessible to the reader. Research shows that that they also enhance readability (Danielson and Larosa, 1989).

"Write as you talk" is a common rule of writing readably, and the best tool to do that is to use contractions. People are accustomed to hearing contractions in spoken English, and using them in your writing helps them relate to your document.

Use contractions with discretion. Just as you shouldn't bullet everything on a page, you shouldn't make a contraction out of every possible word. Don't use them wherever possible, but wherever they sound natural.

| Don't Say | Say |
|---|--|
| No pilot in command of a civil aircraft may allow any object to be dropped from that aircraft in flight that creates a hazard to persons or property. | If you are a pilot in command of a civil aircraft, don't allow any object to be dropped from that aircraft during flight that creates a hazard to persons or property. |

Sources

- Danielson, Wayne A. and Dominic L. Larosa, *A New Readability Formula Based on the Stylistic Age of Novels*, 33 *Journal of Reading* (1989), pp. 194, 196.
- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 49-50.
- Garner, Bryan A., *The Elements of Legal Style*, 2002, Oxford Univ. Press, Oxford and New York, pp. 81-2.

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Don't turn verbs into nouns

Too much government and technical writing uses too many noun strings--groups of nouns "sandwiched" together. Readability suffers when three words that are ordinarily separate nouns follow in succession. Once you get past three, the string becomes unendurable. Technically, clustering nouns turns all but the last noun into adjectives. However, many readers will think they've found the noun when they're still reading adjectives, and will become confused.

Bring these constructions under control by eliminating descriptive words that aren't essential. If you can't do that, open up the construction by using more prepositions and articles to clarify the relationships among the words.

| Avoid nouns strings like these | Instead, say |
|--|---|
| Underground mine worker safety protection procedures development | Developing procedures to protect the safety of workers in underground mines |
| Draft laboratory animal rights protection regulations | Draft regulations to protect the rights of laboratory animals |
| National Highway Traffic Safety Administration's automobile seat belt interlock rule | The interlock rule applied to automotive seat belts by the National Highway Traffic Safety Administration |

Sources

- Garner, Bryan A., *A Dictionary of Modern Legal Usage*, 2nd edition, 1995, Oxford University Press, Oxford and New York, pp. 601-2.
- Garner, Bryan A., *Garner's Modern American Usage*, 2003, Oxford University Press, Oxford and New York, p. 557.
- Wydick, Richard, *Plain English for Lawyers*, 5th edition, 2005, Carolina Academic Press, Durham, NC, p. 71.
- Zinsser, William, *On Writing Well*, 6th edition, 2001, HarperCollins, New York, pp. 77-8.

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Use pronouns to speak directly to readers

Pronouns help users picture themselves in the text and relate better to your documents. More than any other single technique, using “you” pulls readers into your document and makes it relevant to them. When you use “you” to address readers, they are more likely to understand what their responsibility is. Using “we” to refer to your agency makes your sentences shorter and your document easier to read.

| Don't say | Say |
|---|--|
| Copies of tax returns must be provided. | You must provide copies of your tax returns. |

Writing for an individual reader forces you to analyze carefully what you want the reader to do. By writing to an individual, you will find it easier to:

- Put information in a logical order
- Answer questions and provide the information that your reader wants to know
- Assign responsibilities and requirements clearly

Be sure to define “you” clearly.

| Don't say | Say |
|---|--|
| Facilities in regional and district offices are available to the public during normal business hours for requesting copies of agency records. | If you are a private citizen, you can get copies of our records at any regional or district office ... |

Define “you” by any of the following methods:

- State in the beginning of the document who the audience is— “This regulation tells you, the loan applicant, how to secure a loan.”
- Define “you” in the Definitions section— “You” means a loan applicant.
- Where you address different readers in different parts of the document, define “you” in each context— “How do different types of borrowers apply for a loan? If you are a small business, you must submit ... If you are an individual, you must submit ...”

It's especially important to define "you" when writing to multiple audiences.

| Don't say | Say |
|--|--|
| Lessees and operators are responsible for restoring the site. You must ensure that ... | Lessees and operators are responsible for restoring the site. If you are the lessee, you must monitor the operator to ensure that. If you are the operator, you must conduct all operations in a way ... |

If you use a question-and-answer format, you should assume that the reader is the one asking the questions. Use "I" in the questions to refer to the reader. Use "we" in the responses to represent your agency.

| Don't say | Say |
|-----------------------------|-----------------|
| Submission of applications. | How do I apply? |

By using "we" to respond to questions, you state clearly what your agency requires and what your agency's responsibilities are. You also avoid the passive and use fewer words. You can define "we" in the definitions sections of your document if that will help the reader.

| Don't say | Say |
|--|---|
| Loan applications will be reviewed to ensure that procedures have been followed. | We review your loan application to ensure that you followed our procedures. |
| The Office of Consumer Affairs will process your application within 30 days after receipt. | We'll process your application within 30 days of receiving it. |

Make sure you use pronouns that clearly refer to a specific noun. If a pronoun could refer to more than one person or object in a sentence, repeat the name of the person or object or rewrite the sentence.

| Don't say | Say |
|---|---|
| After the Administrator appoints an Assistant Administrator, he or she must ... | After the Administrator appoints an Assistant Administrator, the Assistant Administrator must ... |

Sources

- Garner, Bryan A., *A Dictionary of Modern Legal Usage*, 2nd edition, 1995, Oxford University Press, Oxford and New York, p. 643 item C.
- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, p. 50.
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 33-38.
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, p. 22.
- Wydick, Richard, *Plain English for Lawyers*, 5th edition, 2005, Carolina Academic Press, Durham, NC.

Minimize abbreviations

One legal scholar calls abbreviations a “menace to prose” (Kimble, 2006). Abbreviations were once intended to serve the reader by shortening long phrases. However, abbreviations have proliferated so much in current bureaucratic writing that they constantly require the reader to look back to earlier pages, or to consult an appendix, to puzzle out what’s being said.

Use “nicknames”

The best solution is to find a simplified name for the entity you want to abbreviate. This gives readers meaningful content that helps them remember what you’re talking about. It may be a bit longer, but the gain in clarity and ease of reading is worth it. In most cases, you don’t need to “define” this nickname the first time you use it, unless you are using lots of different nicknames. Especially when you are using a nickname for the major topic of your document, don’t insult your readers and waste their time. For example, in a paper about Resource Advisory Councils, don’t tell them that when you say “Council” you mean “Resource Advisory Council.”

| For | Instead of | Consider |
|---|------------|----------------|
| Engineering Safety Advisory Committee | ESAC | the committee |
| Small-quantity handlers of universal wastes | SQHUU | waste handlers |
| Fire and Police Employee Relations Act | FPERA | the Act |

If everyone knows an abbreviation, use it without explanation

There's a short list of abbreviations that have entered common usage. When you use them, don't define them, you're just taking up space and annoying your reader. But make sure the abbreviation you're using is on the list. Examples include IBM, ATM, BMW, PhD, CIA.

A closely related guideline is, "don't define something that's obvious to the reader." Most federal agencies, when writing a letter responding to an inquiry, insist on defining the agency name, as in, "Thank you for writing to the Federal Aviation Administration (FAA) about your concerns ..." The letterhead says the name of the agency. The person wrote to the agency, and now the agency is writing back. The reader is **not** going to be confused about what FAA means! It just looks stuffy and bureaucratic to repeat it.

If you must abbreviate

Of course, there are some situations in which you can't avoid an abbreviation. Always define an abbreviation the first time you use it, for example, "The American Journal of Plain Language Studies" (AJPLA). And limit the number of abbreviations you use in one document to no more than three, and preferably two. Spell out everything else. If you've used abbreviations for the two or three most common items, it's unlikely that the other items occur so frequently you can't spell them out every time.

When you are considering whether to use an abbreviation, or how many you can get away with in a document, remember that they should make it easier for your readers. If they make it harder, you have failed to write for your reader.

Sources

- Garner, Bryan A., *A Dictionary of Modern Legal Usage*, 2nd edition, 1995, Oxford University Press, Oxford and New York, pp. 447-8.
- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 46-48.
- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, p. 155.

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Use short, simple words

Vocabulary choice is an important part of communicating clearly. While there is no problem with being expressive, most federal writing has no place for literary flair. People do not curl up in front of the fire with a nice federal regulation to have a relaxing read.

Bureaucratic writing is often stodgy, full of long, dry legalisms and other jargon. Federal writing is no exception. H.W. Fowler summed up these recommendations for making word choices in his influential book, *The King's English*, first published in 1906. He encouraged writers to be more simple and direct in their style (quoted in Kimble, 2006).

- Prefer the familiar word to the far-fetched.
- Prefer the concrete word to the abstraction.
- Prefer the single word to the circumlocution.
- Prefer the short word to the long.
- Prefer the Saxon word to the Romance.

Wydick (2005) gives us a great example. Here's a typical bureaucratic construction:

The water was impacted by his rod, whereupon a polluting effect was achieved. The consequent toxification reduced the conditions necessary for the sustenance of the indigenous population of aquatic vertebrates below the level of viability. Olfactory discomfort standards were substantially exceeded, and potability declined. Social, economic, and political disorientation were experienced to an unprecedented degree.

And the original, using stronger, simpler words:

He lifted up the rod and smote the waters of the river . . . and all the waters that were in the river were turned to blood. And the fish that were in the river died; and the river stank, and the Egyptians could not drink the water of the river; and there was blood throughout all the land of Egypt.

In making your word choices, pick the familiar or frequently used word over the unusual or obscure. There are many lists of complex words and suggested substitutes, for example <http://plainlanguage.gov/howto/wordsuggestions/simplewords.cfm>. See also the lists in Kimble (2006).

Sources

- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, pp. 11, 165-174.
- Wydick, Richard, *Plain English for Lawyers*, 5th edition, 2005, Carolina Academic Press, Durham, NC, pp. 56-7.

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Omit unnecessary words

Wordy, dense construction is one of the biggest problems in government writing. Nothing is more confusing to the reader than long, complex sentences containing multiple phrases and clauses. Unnecessary words come in all shapes and sizes, and it's difficult to put them into distinct categories. To address the problem, writers must become more critical of their own writing. They must consider whether they need every word.

One place to start working on this problem in your own writing is to watch out for “of,” “to,” “on,” and other **prepositions**. They often mark phrases you can reduce to one or two words.

| Don't say | Say |
|------------------------|----------------------|
| a number of | several, a few, many |
| a sufficient number of | enough |
| at this point in time | now |
| is able to | can |
| on a monthly basis | monthly |
| on the ground that | because |
| an amount of X | X |
| be responsible for | must |
| in order to | to |

Often, you can omit **redundant words**.

| Don't say | Say |
|---|--|
| The X Department and the Y Department worked together on a joint project to improve ... | The X and Y Departments worked on a project to improve ... |

In this statement, you don't need “joint.” You don't even need “together.” Saying that X **and** Y worked on a project says it all. “Joint” and “together” are both redundant.

Similarly, we often use **excess modifiers** such as *absolutely, actually, completely, really, quite, totally, and very*. But if you take a close look, you'll find that they often aren't necessary, and may even be nonsensical.

| Don't say | Say |
|---|---|
| Their claim was totally unrealistic. | Their claim was absurd. |
| It is particularly difficult to reconcile the somewhat differing views expressed by the management team. | It is difficult to reconcile the differing views expressed by the management team. |
| Total disclosure of all facts is very important to make sure we draw up a total and completely accurate picture of the Agency's financial position. | Disclosing all facts is important to creating an accurate picture of the Agency's financial position. |

Avoid **doublets and triplets**. English, especially legal forms, loves to repeat the same concept by using different words that say the same thing.

| Don't say | Say |
|---------------------------|--------------|
| due and payable | due |
| cease and desist | stop |
| knowledge and information | (either one) |
| begin and commence | start |

Other ways to omit unnecessary words include eliminating [hidden verbs](#), using [pronouns](#), and using [active voice](#). See the guidance on those three topics for more information.

Here's an example that uses several of the techniques discussed above to cut a 54 word sentence down to 22 words, with no loss of meaning.

| Don't say | Say |
|--|---|
| If the State Secretary finds that an individual has received a payment to which the individual was not entitled, whether or not the payment was due to the individual's fault or misrepresentation, the individual shall be liable to repay to State the | If the State agency finds that you received a payment that you weren't entitled to, you must pay the entire sum back. |

| Don't say | Say |
|--|-----|
| total sum of the payment to which the individual was not entitled. | |

Omitting excess words can cut documents significantly. Be diligent in challenging every word you write, and eventually you will learn to write not only clearly, but concisely.

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 43, 40, 34.
- Kimble, Joseph, *Lifting the Fog of Legalese*, Carolina Academic Press, 2006, Durham, NC, pp. 93, 170.
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, p. 25.

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Dealing with definitions

Rule One for dealing with definitions: use them rarely.

Definitions often cause more problems than they solve. Uniformly, writing experts advise keeping definitions to a minimum (Dickerson 1986, Garner 2001, Kimble 2006). If you can't avoid them, use as few as possible. It's better to take the time to rewrite to avoid needing to define a term. If you must use definitions, follow the guidelines below:

Give common words their common meanings, and don't define them. Never define a word to mean something other than its commonly accepted meaning.

Reed Dickerson, in his landmark book *Fundamentals of Legal Drafting* (1986), has this advice for legal drafters:

It is important for the legal draftsman not to define a word in a sense significantly different from the way it is normally understood by the persons to whom it is primarily addressed. This is a fundamental principle of communication, and it is one of the shames of the legal profession that draftsmen so flagrantly violate it. Indeed, the principle is one of the most important in the whole field of legal drafting.

Morris Cohen, in *Reason and Law* (1950), explains, "Whenever we define a word ... in a manner that departs from current customary usage, we sooner or later unwittingly fall back on the common use and thus confuse the meanings of our terms."

Furthermore, readers are likely to forget that you'd assigned some common word a new meaning, and when they come upon the word later in your document they assign the common meaning, rather than your specialized one. Here are some unnecessary definitions.

| |
|--|
| Commonly understood words you probably didn't need to define |
|--|

| |
|---|
| <i>Bicycle</i> means every device propelled solely by human power upon which a person |
|---|

| |
|---|
| or persons may ride on land, having one, two, or more wheels, except a manual wheelchair. |
| <i>Degrade</i> means to lessen or diminish in quantity, quality, or value. |
| <i>Age</i> means how old a person is, or the number of elapsed years from the date of a person's birth. |

And here are some examples of definitions that conflict with customary usage – you should avoid these at all costs.

| Commonly understood words with an uncommon meaning | |
|--|---|
| <i>Pages</i> means paper copies of standard office size or the dollar value equivalent in other media | Ten pages into the document, how do you think the average reader would respond if asked to define “page”? |
| <i>Coal deposits</i> mean all Federally owned coal deposits, except those held in trust for a Native American tribe. | So if coal is held in trust for a Native American tribe, it isn't coal? |
| <i>Dead livestock.</i> The body (cadaver) of livestock which has died otherwise than by slaughter. | So if you slaughter it, it isn't really dead? |

When possible, define a word where you use it

Avoid long sections of definitions at the beginning or end of your document. Go back to Rule One. Rewrite to try to eliminate the need for most definitions.

If you must have a definition section, put it at the beginning or the end

Prefer placing definitions at the end, in spite of tradition. In placing definitions at the end, you allow your reader to go right to the text, rather than having to go through less important material. In definition sections, don't number the definitions, but list them alphabetically. This makes it easier for readers to find a definition, and easier for you to change your definition section later.

Never include regulatory or other substantive material in definitions

Not only is this common sense—your reader doesn't expect substantive material in the definitions section—but for regulations it's a requirement of the Office of the Federal Register.

Consider this "definition" in Title 43 Part 3480—Coal Exploration and Mining Operations:

Maximum economic recovery (MER) means that, based on standard industry operating practices, all profitable portions of a leased Federal coal deposit must be mined. At the times of MER determinations, consideration will be given to: existing proven technology; commercially available and economically feasible equipment; coal quality, quantity, and marketability; safety, exploration, operating, processing, and transportation costs; and compliance with applicable laws and regulations. The requirement of MER does not restrict the authority of the authorized officer to ensure the conservation of the recoverable coal reserves and other resources and to prevent the wasting of coal.

Hiding in this long passage is the definition, "Maximum economic recovery (MER) means the mining of all profitable portions of a leased Federal coal deposit, based on standard industry operating practices." All the rest of the material belongs in the substantive parts of the regulation.

Don't define words you don't use

Again, this seems obvious. But writers seem to automatically define terms they think they might use, but don't. This can be very confusing for the reader, who expects to read something about the topic but can't find it in the document.

Sources

- Cohen, Morris, *Reason and Law*, 1950, The Free Press, Glencoe, IL, p.77.
- Dickerson, Reed, *Fundamentals of Legal Drafting*, 1986, 2nd edition, Little, Brown and Company, Boston and Toronto, pp. 137, 144.
- Flesch, Rudolf, *How to Write in Plain English, A Book for Lawyers and Consumers*, 1979, Harper and Rowe, New York, pp. 58-69, 79.
- Garner, Bryan A., *A Dictionary of Modern Legal Usage*, 2nd edition, 1995, Oxford University Press, Oxford and New York, p. 257-8.
- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 97-99.
- Kimble, Joseph, *Lifting the Fog of Legalese*, Carolina Academic Press, 2006, Durham, NC.
- Office of the Federal Register, *Document Drafting Handbook*, 1998, § 8.15.
<http://www.archives.gov/federal-register/write/handbook/ddh.pdf>.

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Use the same term consistently for a specific thought or object

You will confuse your readers if you use different terms for the same concept. For example, if you use the term “senior citizens” to refer to a group, continue to use this term throughout your document. Don’t substitute another term, such as “the elderly” or “the aged.” Using a different term may cause the reader to wonder if you are referring to the same group.

Don’t feel that you need to use synonyms to make your writing more interesting. Federal writers are not supposed to be creating great literature. You are communicating requirements, how to get benefits, how to stay safe and healthy, and other information to help people in their lives. While using different words may make writing more interesting, it may decrease clarity.

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Avoid legal, foreign, and technical jargon

What do we mean by jargon? Jargon is unnecessarily complicated and convoluted language used to impress, rather than to inform, your reader.

When we say not to use jargon, we're not advocating leaving out necessary technical terms, but we are saying to make sure your other language is as clear as possible. For example, there may not be another correct way to refer to a brinulator valve control ring. But that doesn't prevent you from saying "tighten the brinulator valve control ring securely" instead of "Apply sufficient torque to the brinulator valve control ring to ensure that the control ring assembly is securely attached to the terminal such that loosening cannot occur under normal conditions." The first is a necessary use of a technical term. The second is jargon.

Special terms can be useful shorthand within a group and may be the clearest way to communicate inside the group. However, going beyond necessary technical terms to write in jargon can cause misunderstanding or alienation, even if your audience is made up entirely of specialists. Readers complain about jargon more than any other writing fault, because writers often fail to realize that terms they know well may be difficult or meaningless to their readers. Try to substitute everyday language for jargon as often as possible. Consider the following pairs. The plainer version conveys technical information just as accurately and more clearly than the jargon-laden version.

| Don't say | Say |
|--|---|
| riverine avifauna | river birds |
| involuntarily undomiciled | homeless |
| The patient is being given positive-pressure ventilatory support. | The patient is on a respirator. |
| Most refractory coatings to date exhibit a lack of reliability when subject to the impingement of entrained particulate matter in the propellant stream under extended firing durations. | The exhaust gas eventually damages the coating of most existing ceramics. |

When you have no way to express except to use technical language, make sure you define your terms. However, it's best to keep definitions to a minimum. Remember to write to communicate, not to impress. If you do that, you should naturally use less jargon.

Legal language

Legal language in regulations and other documents is a major source of annoying jargon. Readers can do without archaic jargon such as "hereafter," "heretofore," and "therewith." Professor Joseph Kimble, a noted scholar on legal writing, warns that we should avoid those words and formalisms that give legal writing its musty smell. He includes in his list of examples the following words:

| | |
|-----------------|------------|
| above-mentioned | thereafter |
| aforementioned | thereof |
| foregoing | therewith |
| henceforth | whatsoever |
| hereafte | whereat |
| hereby | wherein |
| herewith | whereof |

(Kimble, 2006).

Another term that is losing its popularity in legal circles is "shall." Obviously, it's especially important in regulations to use words of authority clearly, and many top legal writing experts now recommend avoiding the archaic and ambiguous "shall" in favor of another word, depending on your meaning. Read more about "shall" in the discussion of using "must" to convey requirements.

See also the discussion about dealing with definitions.

Sources

- Garner, Bryan A., *Garner's Modern American Usage*, 2003, Oxford University Press, Oxford and New York, pp. 472-3.
- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, pp.173-4.

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Don't use slashes

Apart from fractions, the slash has almost no good uses. “And/or” is classic legalese. In most cases, writers mean *either* “or” or “and.” But they don’t want to take the time to decide which they mean, so they push the job off on the reader. That makes their writing ambiguous. As an author, you should make the decision about what you mean. In the few cases—and there do seem to be very few—where you truly mean both, write out either X, or Y, or both.

Often when writers use slashes, a dash is more appropriate to join equal or like terms, as in “faculty-student ratio”.

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, p. 163.
- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, pp. 155-6.

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Break your material into short sentences

Express only one idea in each sentence. Long, complicated sentences often mean that you aren't clear about what you want to say. Shorter sentences are also better for conveying complex information; they break the information up into smaller, easier-to-process units.

Sentences loaded with dependent clauses and exceptions confuse the reader by losing the main point in a forest of words. Resist the temptation to put everything in one sentence; break up your idea into its parts and make each one the subject of its own sentence.

| Don't say | Say |
|---|--|
| For good reasons, the Secretary may grant extensions of time in 30-day increments for filing of the lease and all required bonds, provided that additional extension requests are submitted and approved before the expiration of the original 30 days or the previously granted extension. | We may extend the time you have to file the lease and required bonds. Each extension will be for 30 days. To get an extension, you must write to us explaining why you need more time. We must receive your extension request in time to approve it before your current deadline or extension expires. |

Complexity is the greatest enemy of clear communication. You may need to be especially inventive to translate complicated provisions into more manageable language. In the following example, we have made an "if" clause into a separate sentence. By beginning the first sentence with "suppose" (that is, "if") and the second sentence with "in this case" (that is, "then") we have preserved the relationship between the two.

| Don't say | Say |
|-------------------------------------|---|
| If you take less than your entitled | Suppose that one month you pay royalties on |

| Don't say | Say |
|--|--|
| <p>share of production for any month, but you pay royalties on the full volume of your entitled share in accordance with the provisions of this section, you will owe no additional royalty for that lease for prior periods when you later take more than your entitled share to balance your account. This also applies when the other participants pay you money to balance your account.</p> | <p>your full share of production but take less than your entitled share. In this case, you may balance your account in one of the following ways without having to pay more royalty. You may either:</p> <ol style="list-style-type: none"> a. Take more than your entitled share in the future; or b. Accept payment from other participants. |

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 19-21.
- Kimble, Joseph, *Guiding Principles for Restyling the Civil Rules*, 2005, US Courts, Washington, DC, p. xvii.
http://www.uscourts.gov/rules/Prelim_draft_proposed_pt1.pdf.
- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, p. 96.
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, p. 77.
- Office of the Federal Register, *Document Drafting Handbook*, 1998, MMR-5.
<http://www.archives.gov/federal-register/write/handbook/ddh.pdf>.
- Redish, Janice C., *How to Write Regulations and Other Legal Documents in Clear English*, 1991, American Institutes for Research, Washington, DC, pp. 29-32
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, p. 28.

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Keep subject, verb, and object close together

The natural word order of an English sentence is subject-verb-object. This is how you first learned to write sentences, and it's still the best. When you put modifiers, phrases, or clauses between two or all three of these essential parts, you make it harder for the reader to understand you.

Consider this long, convoluted sentence:

If any member of the board retires, the company, at the discretion of the board, and after notice from the chairman of the board to all the members of the board at least 30 days before executing this option, may buy, and the retiring member must sell, the member's interest in the company.

In essence, the sentence says:

The company may buy a retiring member's interest.

All the rest of the material modifies the basic idea, and should be moved to another sentence or at least to the end of the sentence.

Many sentences in regulations include "if-then" provisions. Often, "if" defines who is covered by a provision. Start your sentence with the "if" provision, and then list the "then" provisions. If the provision is complex, and especially if there are several different "if" provisions, use a different sentence for every "if," or consider using an if-then table.

Consider this complex regulatory provision:

We must receive your completed application form on or before the 15th day of the second month following the month you are reporting if you do not submit your application electronically or the 25th day of the second month following the month you are reporting if you submit your application electronically.

While still complex, the table is a significant improvement:

| | |
|---|--|
| We must receive your completed application by the following dates: | |
| If you submit your form ... | We must receive it by ... |
| Electronically | the 25th of the second month following the month you are reporting |
| Other than electronically | the 15th of the second month following the month you are reporting |

See the materials on using tables for more information about tables.

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 23-4, 102.
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp.77-78.
- Office of the Federal Register, *Document Drafting Handbook*, 1998, MMR-6.
<http://www.archives.gov/federal-register/write/handbook/ddh.pdf>
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, p. 32.

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Avoid double negatives and exceptions to exceptions

We're accustomed to thinking and speaking positively. When we write in the negative, we're placing another stumbling block in the way of readers and making it more difficult for them to understand us. When you're going to meet a friend at the airport, do you say, "If you fail to arrive by 5:00 I cannot pick you up," or do you say, "You have to arrive by 5:00 if you want me to pick you up"?

When you write a sentence containing two negatives, they cancel each other out. Your sentence sounds negative, but is actually positive. As Rudolph Flesch (1979) says, these sentences require "a mental switch from no to yes."

| Don't say | Say |
|---|--|
| No approval of any noise compatibility program, or any portion of a program, may be implied in the absence of the agency's express approval. | You must get the agency's express approval for any noise compatibility program or any portion of a program |

Here are some expressions that signal double negatives.

| Change the double negative | To a positive |
|----------------------------|-------------------|
| no fewer than ... | at least |
| has not yet attained | is under |
| may not ... until | may only ... when |
| is not ... unless | is ... only if |

Many ordinary words have a negative meaning, such as *unless*, *fail to*, *notwithstanding*, *except*, *other than*, *unlawful* (*un-* words), *disallowed* (*dis-* words), *terminate*, *void*, *insufficient*, and so on. Watch out for them when they appear after *not*. Find a positive word to express your meaning.

| Don't say | Say |
|--|--|
| An application for a grant does not become void unless the applicant's failure to provide requested information is unreasonable under the circumstances. | An application for a grant remains active if the applicant provides the information we request within a reasonable time. |

Exceptions to exceptions

An exception that contains an exception is just another form of a double negative. And it's usually even harder for the reader to puzzle out. Rewrite the sentence to emphasize the positive.

| Don't say | Say |
|--|---|
| Applicants may be granted a permit to prospect for geothermal resources on any federal lands except lands in the National Park System, unless the applicant holds valid existing rights to the geothermal resources on the National Park System lands listed in the application. | You may be granted a permit to prospect for geothermal resources on any federal lands. This includes lands in the National Park System only if you hold valid existing rights to the park lands listed in your application. |

Sources

- Flesch, Rudolf, *How to Write in Plain English, A Book for Lawyers and Consumers*, 1979, Harper and Rowe, New York, p. 95.
- Garner, Bryan A., *Guidelines for Drafting and Editing Court Rules*, 1996, Administrative Office of the US Courts, Washington, DC, pp. 30-31.
- Wydick, Richard, *Plain English for Lawyers*, 5th edition, 2005, Carolina Academic Press, Durham, NC, pp. 75-76.

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Place the main idea before exceptions and conditions

When you start a sentence with an introductory phrase or clause beginning with “except,” you almost certainly force the reader to re-read your sentence. You are stating an exception to a rule before you have stated the underlying rule. The reader must absorb the exception, then the rule, and then usually has to go back to grasp the relationship between the two. Material is much easier to follow if you start with the main idea and then cover exceptions and conditions.

| Don't say | Say |
|--|--|
| Except as described in paragraph (b), the Division Manager will not begin the statutory 180-day review period for the program until after the preliminary review determines that your submission is administratively complete. | The Division Manager will not begin the statutory 180-day review period for the program until the preliminary review determines that your submission is administratively complete. However, see paragraph (b) for an exception. |

In the first version, the reader has to decide whether to jump immediately down to paragraph (b) or continue reading to the end of the sentence. This means the reader is focusing on reading strategy, not on your content.

There is no absolute rule about where to put exceptions and conditions. Put them where they can be absorbed most easily by readers. In general, the main point of the sentence should be as close to the beginning as possible.

Usually use the word **if** for conditions. Use **when** (not **where**), if you need **if** to introduce another clause or if the condition occurs regularly.

If an exception or condition is just **a few words**, and seeing it first will avoid misleading readers, put it at the beginning instead of the end.

| Don't say | Say |
|--|--|
| <p>With your grant application you must submit a resume containing your undergraduate, graduate, and any other professional education, your work experience in the field of health care, and the name, and phone number of current and previous employers in the health care field, unless you have already submitted this information.</p> | <p>Unless you have already submitted an up-to-date resume, you must submit a resume containing your undergraduate, graduate, and any other professional education, your work experience in the field of health care, and the name, address and phone number of current and previous employers in the health care field.</p> |

If an exception or condition is **long** and the main clause is **short**, put the main clause first and then state the exception or condition.

| Don't say | Say |
|--|--|
| <p>Except when you submitted an identical application for an education grant in the previous year and you received full or partial grant for that year's program, we will schedule a hearing on your application.</p> | <p>We will schedule a hearing on your application, except when you submitted an identical application for an education grant in the previous year and you received full or partial grant for that year's program.</p> |

If a condition and the main clause are **both long**, *foreshadow* the condition and put it at the end of the sentence. If there are several conditions, lead in with "if" or a phrase such as "in the following circumstances."

| Don't say | Say |
|--|---|
| <p>If you, or an interested party, requests that the hearing be held at the educational institution where you plan to instruct program participants, and the hearing room is both handicapped-accessible and large enough for at least 100 people, we may, at our discretion, hold the hearing at that location, after adequate public notice.</p> | <p>We may hold a hearing at the educational institution where you plan to instruct program participants if:</p> <ul style="list-style-type: none"> a. You, or an interested party, request the location; b. The hearing room is large enough for at least 100 people and handicapped-accessible; |

| | |
|-----------|---|
| Don't say | Say |
| | and c. We can give adequate public notice. |

Use a vertical list (like the example above) if your sentence contains multiple conditions or exceptions. Here's how the first example, above, could be rewritten.

| Don't say | Say |
|---|---|
| With your grant application you must submit a resume containing your undergraduate, graduate, and any other professional education, your work experience in the field of health care, and the name, and phone number of current and previous employers in the health care field, unless you have already submitted this information. | <p>Unless you have already submitted an up-to-date resume, you must submit a resume containing:</p> <ul style="list-style-type: none"> • Your undergraduate, graduate, and any other professional education; • Your work experience in the field of health care; and • The name, address and phone number of current and previous employers in the health care field. |

Use numbers or letters to designate items in a list if future reference or sequence is important (for example, in a regulation). Otherwise, use bullets.

Make implied conditions explicit by using if.

| Don't say | Say |
|--|---|
| A party must make advance arrangements with the hearing officer for the transportation and receipt of exhibits of unusual bulk. | If your exhibits are unusually bulky, you must make advance arrangements for transporting them with the hearing. |

Avoid using an exception, if you can, by stating a rule or category directly rather than describing that rule or category by stating its exceptions.

| Don't say | Say |
|--|---|
| All persons except those 18 years or older must... | Each person under 18 years of age must... |

But use an exception if it avoids a long and cumbersome list or elaborate description.

| Don't say | Say |
|--|--|
| Alabama, Alaska,... and Wyoming (a list of 47 states) must | Each state except Texas, New Mexico, and Arizona must... |

Sources

- Garner, Bryan A., *Guidelines for Drafting and Editing Court Rules*, 1996, Administrative Office of the US Courts, Washington, DC, pp. 5-9..
- Office of the Federal Register, *Drafting Legal Documents*, 1998, § 7.
<http://www.archives.gov/federal-register/write/legal-docs/>
- Wydick, Richard, *Plain English for Lawyers*, 5th edition, 2005, Carolina Academic Press, Durham, NC, pp. 46-47.

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Place words carefully

Sloppy word placement can cause ambiguity. To reduce ambiguity:

- Keep subjects and objects close to their verbs.
- Put conditionals such as “only” or “always” and other modifiers next to the words they modify. Write “you are required to provide only the following,” not “you are only required to provide the following.”
- Put long conditions after the main clause. Write “complete form 9-123 if you own more than 50 acres and cultivate grapes,” not “if you own more than 50 acres and cultivate grapes, complete form 9-123.”

In the left column below, it’s difficult to figure out which words relate to the forest products, which to the tribe, and which to the payments. The right column eliminates this problem by dividing the material into shorter sentences and pulling together the words about each provision.

| Confusing word placement | Clearer construction |
|---|---|
| Upon the request of an Indian tribe, the Secretary may provide that the purchaser of the forest products of such tribe, which are harvested under a timber sale contract, permit, or other harvest sale document, make advance deposits, or direct payments of the gross proceeds of such forest products, less any amounts segregated as forest management deductions pursuant to section 163.25, into accounts designated by such Indian tribe. | If a tribe (you) asks us, we will require purchasers of your forest products to deposit their payment into an account that you designate. a. You can instruct us to deposit advance payments as well as direct payments into the account. b. We will withhold from the deposit any forest management deductions under section 163.25. |

You will eliminate many potential sources of ambiguity by writing shorter sentences. The less complex the sentence, the clearer the meaning and less chance of ambiguity creeping in. Still, you must watch how you place words even in short sentences. In the

example below, the reader may have to read the original statement several times to realize that we don't mean, "If you really want to have a disability ..."

| Ambiguous construction | Clearer construction |
|--|--|
| If you are determined to have a disability, we will pay you the following: | If we determine that you have a disability, we will pay you the following: |

Sources

- Garner, Bryan A., *Garner's Modern American Usage*, 2003, Oxford University Press, Oxford and New York, pp. 566-67.

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Have a topic sentence

If you tell readers what they're going to read about, they're less likely to have to read your paragraph again. Headings help, but they're not enough. Establish a context for your readers before you provide them with the details. If you flood them with details first, they become impatient and may resist hearing your message. A good topic sentence draws readers into your paragraph.

We often write the way we think, putting our premises first and then our conclusion. It may be the natural way to develop our thoughts, but we wind up with the topic sentence at the end of the paragraph. Move it up front and let readers know where you're going. Don't make readers hold a lot of information in their heads before they get to your point.

Also, busy readers want to **skim** your document, stopping only for what they want or need to know. You can help them by giving each a paragraph a good introduction. Readers should be able to get good general understanding of your document by skimming your topic sentences.

A side benefit of good topic sentences (and good headings) is that they help you see if your document is well-organized. If it isn't, topic sentences make it easier for you to rearrange your material.

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 65-66.

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Use transition words

A topic sentence may provide a transition from one paragraph to another. But a transition word or phrase (usually in the topic sentence) clearly tells the reader whether the paragraph expands on the paragraph before, contrasts with it, or takes a completely different direction.

Bryan Garner (2001) divides transition words into three types:

Pointing words: words like *this*, *that*, *these*, *those*, and *the*.

Pointing words--especially *this* and *that*--refer directly to something already mentioned. They point to an antecedent. If your preceding paragraph describes the process of strip mining, and your next paragraph begins with "this process causes...," the word *this* makes a clear connection between paragraphs.

Echo links: words or phrases echo a previously mentioned idea.

Echo links often work together with pointing words. In the example above, you're just written a paragraph about how strip mining removes the top surface of the land to get at the coal under it. If you then begin the next paragraph with "this scaring of the earth," the words "scaring of the earth" are an echo of the mining process described in the previous paragraph.

Explicit connectives: words whose chief purpose is to supply transitions (such as *further*, *also*, *therefore*).

Explicit connectives between sentences and paragraphs can be overdone, but more often we simply overlook using them. Being too familiar with our own material, we think they aren't needed. Readers, on the other hand, find them helpful in following our train of thought. Here are some examples from Bryan Garner.

- **When adding a point:** also, and, in addition, besides, what is more, similarly, further

- **When giving an example:** for instance, for example, for one thing, for another thing
- **When restating:** in other words, that is, in short, put differently, again
- **When introducing a result:** so, as a result, thus, therefore, accordingly, then
- **When contrasting:** but, however, on the other hand, still, nevertheless, conversely
- **When summing up:** to summarize, to sum up, to conclude, in conclusion, in short
- **When sequencing ideas:** First,...Second,...Third,...Finally,...

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 67-71.

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Write short paragraphs

Long paragraphs discourage readers from even trying to understand your material; short paragraphs are easier to read and understand. Writing experts recommend paragraphs of no more than 150 words in three to eight sentences. Paragraphs should never be longer than 250 words. Vary the lengths of your paragraphs to make them more interesting. As with sentence length, if all paragraphs are the same size your writing will be choppy.

There is nothing wrong with an occasional one-sentence paragraph.

Using short paragraphs is an ideal way to open up your document and create more white space. In turn, this makes your writing more inviting and easier to read. It also gives you the opportunity to add more headings.

| Long, dense paragraph | Material divided into four paragraphs |
|--|---|
| <p>Flu Medication A specific vaccine for humans that is effective in preventing avian influenza is not yet readily available. Based upon limited data, the CDC has suggested that the anti-viral medication Oseltamivir (brand name-Tamiflu) may be effective in treating avian influenza. Using this input, the Department of State has decided to pre-position the drug Tamiflu at its Embassies and Consulates worldwide, for eligible U.S. Government employees and their families serving abroad who become ill with avian influenza. We emphasize that this medication cannot be made available to private U.S. citizens abroad. Because of this, and because Tamiflu</p> | <p>Flu Medication for Government Employees A specific vaccine for humans effective in preventing avian influenza is not yet readily available. Based on limited data, the CDC suggested that the anti-viral medication Oseltamivir (brand name-Tamiflu) may be effective in treating avian influenza. Using this input, the Department of State decided to pre-position the drug Tamiflu at its Embassies and Consulates worldwide, for eligible U.S. Government employees and their families serving abroad who become ill with avian influenza.</p> <p>Flu Medication for Private Citizens We emphasize that we can't make this</p> |

| Long, dense paragraph | Material divided into four paragraphs |
|--|---|
| <p>may not be readily available overseas, the State Department encourages American citizens traveling or living abroad to consult with their private physician about whether to obtain Tamiflu prior to travel, for use in the event treatment becomes necessary, or whether Tamiflu is readily available in the country where they reside. Americans should also be aware of the potential health risk posed by counterfeit drugs, including those represented as Tamiflu, by internet scam artists or in countries with lax regulations governing the production and distribution of pharmaceuticals. In addition, the Department of State has asked its embassies and consulates to consider preparedness measures that take into consideration the fact that travel into or out of a country may not be possible, safe or medically advisable. Guidance on how private citizens can prepare for a “stay in place” response, including stockpiling food, water, and medical supplies, is available on the CDC and pandemicflu.gov websites.</p> | <p>medication available to private U.S. citizens abroad. Because of this, and because Tamiflu may not be readily available overseas, the State Department encourages American citizens traveling or living abroad to consult with their private physician about whether to get Tamiflu before you travel, to use if treatment becomes necessary, or whether Tamiflu is readily available in the country where they live.</p> <p>Counterfeit Drug Warning Americans should also be aware of the potential health risk posed by counterfeit drugs, including those represented as Tamiflu, by internet scam artists or in countries with lax regulations governing the production and distribution of pharmaceuticals.</p> <p>Additional Precautions In addition, the Department of State has asked its embassies and consulates to consider preparedness measures that consider that travel into or out of a country may not be possible, safe or medically advisable. Guidance on how private citizens can prepare for a “stay in place” response, including stockpiling food, water, and medical supplies, is available on the CDC and pandemicflu.gov websites.</p> |

In addition to breaking material into more, shorter, paragraphs, consider using a heading for each paragraph, as we did in this example.

See also [Include only one issue in each paragraph](#).

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 72-3.
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 24-5.

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Cover only one topic in each paragraph

Limit each paragraph or section to one topic to make it easier for your reader to understand your information. Each paragraph should start with a topic sentence that captures the essence of everything in the paragraph.

| Don't say | Say |
|---|---|
| <p>a. Notice of a bid advertisement shall be published in at least one local newspaper and in one trade publication at least 30 days in advance of sale. If applicable, the notice must identify the reservation within which the tracts to be leased are found. Specific descriptions of the tracts shall be available at the office of the superintendent. The complete text of the advertisement shall be mailed to each person listed on the appropriate agency mailing list.</p> | <p>a. Thirty days before the sale, we will publish a notice advertising bids. The notice will be in at least one local newspaper and in one trade publication. It will identify any reservation where the tracts to be leased are located.</p> <p>b. We will share information about this process in two other ways. We will mail the advertisement to each person on the appropriate agency mailing list. We will also provide specific descriptions of the tracts at the superintendent's office.</p> |

Putting each topic in a separate paragraph makes your information easier to digest.

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Use examples

Examples help you clarify complex concepts, even in regulations. In spoken English, when you ask for clarification of something, people often respond by giving you an example. Good examples can substitute for long explanations. The more complex the concept you are writing about, the more you should consider using an example. They are an ideal way to help your audience. By giving your readers an example that's relevant to their situation, you help them relate to your document.

Avoid using the Latin abbreviations for “for example” (e.g.) and “that is” (i.e.). Few people know what they mean, and they often confuse the two. Write out the lead-in to your example: “for example” or “such as.”

The Internal Revenue Service makes extensive use of examples in its regulations throughout 26 CFR Part 1, the regulations on income taxes. The Environmental Protection Agency also uses examples in its regulations. Here's one from 40 CFR Part 50, Appendix H--Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone.

| EPA regulation using an example |
|--|
| Suppose a monitoring station records a valid daily maximum hourly average ozone value for every day of the year during the past 3 years. At the end of each year, the number of days with maximum hourly concentrations above 0.12 ppm is determined and this number is averaged with the results of previous years. As long as this average remains “less than or equal to 1,” the area is in compliance. |

Sources

- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 45-46.

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Use vertical lists

Vertical lists highlight a series of requirements or other information in a visually clear way. Use vertical lists to help your reader focus on important material. Vertical lists:

- Highlight levels of importance
- Help the reader understand the order in which things happen
- Make it easy for the reader to identify all necessary steps in a process
- Add blank space for easy reading
- Are an ideal way to present items, conditions, and exceptions.

| Don't say | Say |
|---|---|
| <p>Each completed well drilling application must contain a detailed statement including the following information: the depth of the well, the casing and cementing program, the circulation media (mud, air, foam, etc.), the expected depth and thickness of fresh water zones, and well site layout and design.</p> | <p>With your application for a drilling permit, provide the following information:</p> <ul style="list-style-type: none"> • Depth of the well; • Casing and cementing program; • Circulation media (mud, air, form, etc) • Expected depth and thickness of fresh water zones; and • Well site layout and design. |

Vertical lists are also helpful in clarifying the chronological order of steps in a process. With these lists, consider numbering the items to suggest the order of steps.

| Vertical list suggests the correct order of events |
|---|
| <p>When a foreign student presents a completed Form I-20:</p> <ol style="list-style-type: none"> 1. Enter the student's admission number from Form 94; 2. Endorse all copies of the form; 3. Return a copy to the student; and |

Vertical list suggests the correct order of events

4. Send a copy to the Immigration and Naturalization Service.

However, you can over-use vertical lists. Remember to use them to highlight important information, not to over-emphasize trivial matters. If you use bullets, use solid round or square ones. Bullets are not the place to be overly creative. Large creative bullets with strange shapes tend to distract the reader and may not display properly on some computer systems.

Your lists will be easier to read if you:

- Always use a lead-in sentence to explain your lists;
- Indent your lead-in sentence from the left margin; and
- Use left justification only – never center justification.

| Don't say | Say |
|---|--|
| Classroom supplies: <ul style="list-style-type: none">• A tablet• A pen or pencil• The paperwork you sent us when you first applied for class | Classroom Supplies When you come to class, you should bring the following— <ul style="list-style-type: none">• A tablet• A pen or pencil• The paperwork you sent us when you first applied for class. |

In the example above, the lack of a lead-in sentence on the left makes it unclear who is to bring the supplies. Centering the bullets may make a nice pattern, but it makes it very difficult to see where statements begin and end. The lead in sentence on the right clarifies who is responsible for bringing supplies. Indenting makes it easier to see how the information is chunked.

Sources

- Garner, Bryan A., *Legal Writing in Plain English*, 2001, University of Chicago Press, Chicago, pp. 100, 125.
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 25, 81-84.
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, p. 34.

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Use tables to make complex material easier to understand

By laying out material visually, tables help your reader see relationships in a way that dense text never can. And for most readers, it's not necessary to understand all possibilities and conditions, only those that apply to the reader's situation.

Probably the most useful type of table is the "if-then table." An "if-then" table organizes the material by a situation (if something is the case) and the consequence (then something else happens). The rewritten regulation in the "if-then" table below is far clearer than the dense text it replaces. It also makes the document appear less dense and easier on the eye.

| Dense text |
|--|
| <p>§ 163.25 Forest management deductions.</p> <ol style="list-style-type: none">a. Pursuant to the provisions of 25 U.S.C. 413 and 25 U.S.C. 3105, a forest management deduction shall be withheld from the gross proceeds of sales of Indian forest land as described in this section.b. Gross proceeds shall mean the value in money or money's worth of consideration furnished by the purchaser of forest products purchased under a contract, permit, or other document for the sale of forest products.c. Forest management deductions shall not be withheld where the total consideration furnished under a document for the sale of forest products is less than \$5,001.d. Except as provided in § 163.25(e) of this part, the amount of the forest deduction shall not exceed the lesser amount of ten percent (10%) of the gross proceeds or, the actual percentage in effect on November 28, 1990.e. The Secretary may increase the forest management deduction percentage for Indian forest land upon receipt of a written request from a tribe supported by a written resolution executed by the authorized tribal representatives. At the request of the authorized tribal representatives and at the discretion of the Secretary the forest management deduction percentage may be decreased to |

Dense text

not less than one percent (1%) or the requirement for collection may be waived.

If-then table

§ 163.25 Will BIA withhold any forest management deductions?

We will withhold a forest management deduction if the contract for the sale of forest products has a value of over \$5,000. The deduction will be a percentage of the price we get from the buyer. The following table shows how we determine the amount of the deduction.

| If ... | and ... | then the percentage of the deduction is ... |
|---|--------------------------------|--|
| a tribe requests an increase in the deduction through a tribal resolution | they send us a written request | the percentage requested by the tribe. |
| an authorized tribal representative requests a decrease in the deduction | we approve the decrease | the percentage requested, with a one percent minimum. |
| an authorized tribal representative requests a waiver of the deduction | we approve the waiver | waived. |
| none of the above conditions apply | | the percentage in effect on November 28, 1990, or 10 percent, whichever is less. |

You can use variations on the if-then table to clarify other types of complicated provisions. Which of the following would you rather read?

Dense text

§ 163.17 Deposit with bid.

- a. A deposit shall be made with each proposal for the purchase of Indian forest products. Such deposits shall be at least:
 - 1. Ten (10) percent if the appraised stumpage value is less than \$100,000 in any event not less than \$1,000 or full value whichever is less.
 - 2. Five (5) percent if the appraised stumpage value is \$100,000 to \$250,000 but in any event not less than \$10,000; and
- b. Three (3) percent if the appraised stumpage value exceeds \$250,000 but in any event not less than \$12,500.

If-then table

§ 163.17 Must I make a deposit with my bid?

You must include a deposit with your bid to buy Indian forest products, but the amount of the deposit varies.

| If the appraised stumpage value is ... | you must deposit ... | and the minimum amount of the deposit is ... |
|---|-------------------------------------|---|
| less than \$100,000 | ten percent of the stumpage value | \$1,000 |
| between \$100,000 and \$250,000 | five percent of the stumpage value | \$10,000 |
| over \$250,000 | three percent of the stumpage value | \$12,500 |

If-then tables are powerful tools for simplifying complicated material. And tables generally use many fewer words than a straight textual explanation would use.

Sources

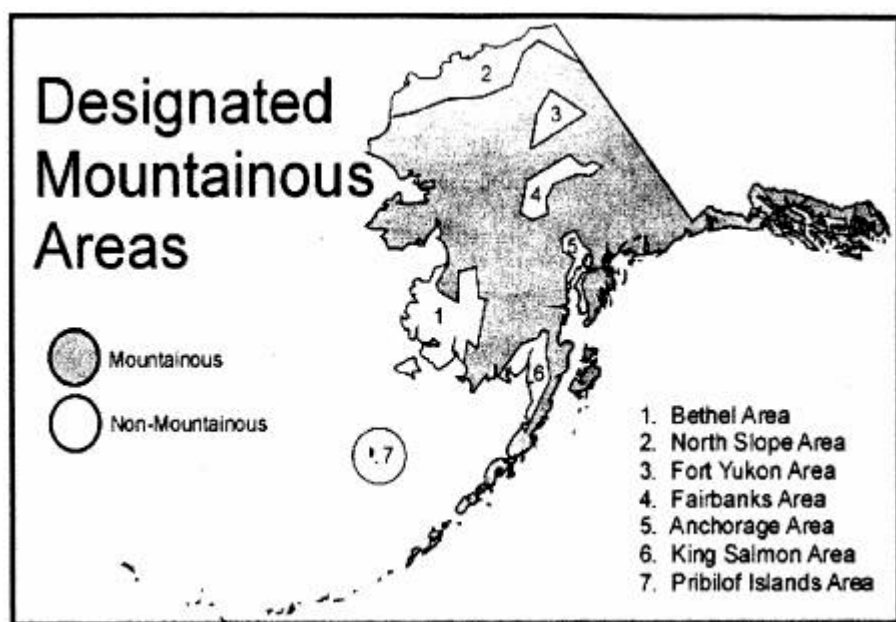
- Kimble, Joseph, *Lifting the Fog of Legalese*, 2006, Carolina Academic Press, Durham, NC, p. 70(B).
- Murawski, Thomas A., *Writing Readable Regulations*, 1999, Carolina Academic Press Durham, NC, pp. 39-44.
- Office of the Federal Register, *Document Drafting Handbook*, 1998, MMR 4. <http://www.archives.gov/federal-register/write/handbook/>.
- Securities and Exchange Commission, *Plain English Handbook*, 1998, Securities and Exchange Commission, Washington, DC, pp. 49-52.

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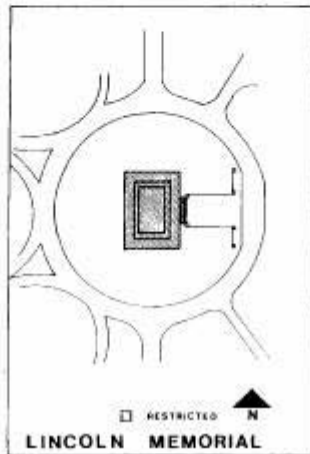
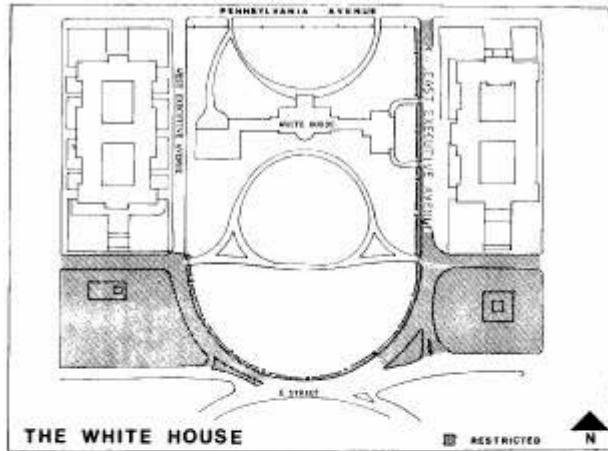
Consider using illustrations

While government pamphlets and similar items intended for the public usually include many illustrations, illustrations rarely appear in letters or regulations. However, even in these documents, you can use illustrations to good effect. Consider these examples from regulations.

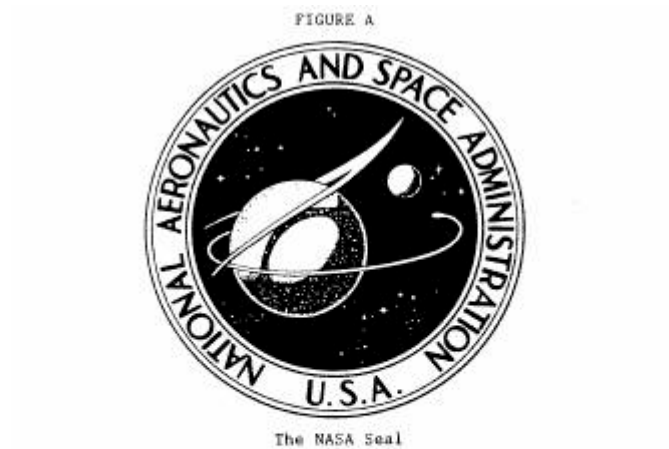
Federal Aviation Regulations at 14 CFR part 95 contain illustrations of mountainous areas which are subject to special flight restrictions, such as this illustration of mountainous areas of Alaska:



National Park Service regulations at 36 CFR part 7.96 includes pictures of areas in Washington, DC, where activities are controlled, such as these drawings of the White House and Lincoln Memorial:



14 CFR 1221.102 establishes the NASA Seal.



TECHNICAL DESCRIPTION:

The official seal of the National Aeronautics and Space Administration is a disc of blue sky strewn with white stars. To the left, there is a large yellow sphere bearing a red flight vector symbol. The wings of the vector symbol envelope and cast a brown shadow upon it. A white horizontal orbit also encircles the sphere. To the right, there is a small light blue sphere. A white band which circumscribes the disc is edged in gold and is inscribed with "National Aeronautics and Space Administration U.S.A." in red letters.

Appendix C to 40 CFR Part 50 illustrates the measurement principle and calibration procedure for measuring carbon monoxide in the atmosphere.

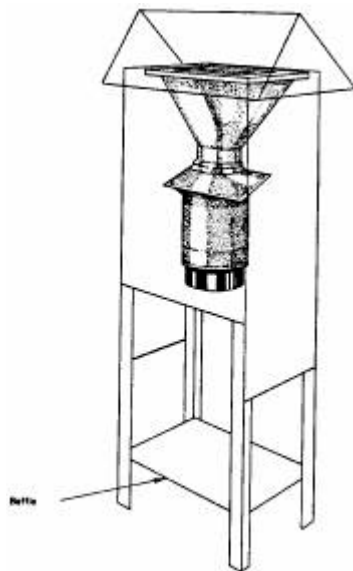


Figure 1. High-volume sampler in shelter.

50 CFR section 216.95 illustrates the official mark for “Dolphin-safe” tuna products.

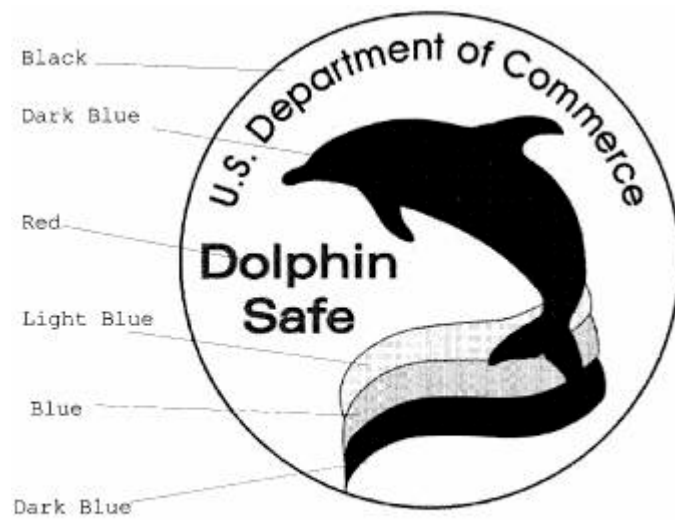


Figure 1.

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Use emphasis to highlight important concepts

Use *bold and italics* to make important concepts stand out. While it is difficult to use these techniques in regulations, emphasis helps bring out important points in other documents. Limit emphasis to important information, otherwise you'll dilute its impact.

PUTTING EVERYTHING IN CAPITAL LETTERS IS NOT A GOOD EMPHASIS TECHNIQUE. ALTHOUGH IT MAY DRAW THE READER'S ATTENTION TO THE SECTION, IT MAKES IT HARDER TO READ. AND IN AN ELECTRONIC ENVIRONMENT IT'S CONSIDERED SHOUTING. Similarly, underlining will draw the reader's attention to the section, but it makes it hard on the eyes. Besides, in an electronic environment, people expect underlined text to be a link. *It's better to use bold and italics for important issues.*

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Minimize cross-references

Nothing is more annoying than coming upon cross-references in reading material. Cross-references frustrate any attempt to write clearly and simply. Most readers consider them a bother, and just skip over them. This can be a problem when the document is a regulation! Numerous cross-references can confuse readers and make them less attentive to your message. They may also overtax your readers' short-term memory. Imagine the work it would take a reader to puzzle out just this one short section from our tax regulations.

| Regulation with many confusing cross-references |
|---|
| <i>"Section 1250 capital gain—(i) Definition. For purposes of this section, section 1250 capital gain means the capital gain (not otherwise treated as ordinary income) that would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent."</i> |

On the other hand, repeating bulky material over and over can be equally annoying to readers. So there is a place for cross-references, but the challenge is to not overdo them.

How to minimize cross-references

There are several ways to deal with cross-references. The best is to organize your material so you can **eliminate the need for cross-references**. Often, you are forced to resort to a cross-reference because the material isn't organized the way it should be, so material that belongs together is instead found in distant sections. However, given the complexity of some documents, it won't be possible to eliminate them all. If a cross-reference refers to **brief material**, just repeat that material and get rid of the cross-reference. Sometimes, careful thought may reveal that you've included an **unnecessary cross-reference**.

If the cross-reference is to **lengthy material** that, if included, would make the wording long and complicated, you may have to refer readers to another section. Typically, this

would include long descriptive material, such as a long list of items or a list of requirements that you want to apply to a new situation.

Be sure that the reference you insert clearly describes the referenced material. That way readers can decide if they need to read it to know how the rule affects them. Sometimes just including the title of the referenced section is enough.

Let's look at an example from National Park Service regulations.

| A regulation with several cross references |
|---|
| Section 45. May I camp in a national park? |
| If you hold one of the vehicle entry passes listed in Section 18 for entry into a national park, you may camp in that park. But you may not sleep in a tent if the park has declared one of the animal danger levels described in paragraphs (c) through (h) of Section 51, and the campsite is not covered by an animal emergency plan as described in Section 52. |

In this excerpt, the first cross-reference is to brief material, so you can just repeat it here. The second cross-reference is to a long list of information; it's probably clearest to keep the cross-reference. The third cross-reference probably isn't necessary — the camper needs to know whether there is an animal emergency plan, but not the details of the plan contained in Section 52. Following these principles, the final text could read.

| Two of three cross-references eliminated |
|--|
| Section 45. May I camp in a national park? |
| If you hold a daily, weekly, or annual vehicle entry pass for a national park, you may camp in that park. But you may not sleep in a tent if the park has declared one of the animal danger levels described in paragraphs (c) through (h) of Section 51, and the campsite is not covered by an animal emergency plan. |

Another treatment

If you believe you must include cross-references, consider putting them at the end of the text, like a reference, rather than in the middle. This is less disruptive to the reader, and less annoying. It gives readers a chance to absorb your main message before your references elaborate on it. As an example, if you need to keep the second and third references in the national park example above, you might write it this way:

| Cross-references at end of passage |
|--|
| Section 45. May I camp in a national park? |
| If you hold a daily, weekly, or annual vehicle entry pass for a national park, you may |

Cross-references at end of passage

camp in that park. But you may not sleep in a tent if the park has declared an animal danger level and the campsite is not covered by an animal emergency plan.
(See paragraphs (c) through (h) of Section 51 for animal danger levels.)
(See Section 52 for animal emergency plans.)

Referring to another agency's regulations

If you want to require readers to comply with certain requirements of another Federal agency, which they would not otherwise have to do, you have to meet the requirements of the Office of the Federal Register (OFR). A Federal agency may cross-reference the regulations of another Federal agency only if the OFR finds that the reference meets one of the conditions specified in 1 CFR 21.21. You can find a discussion of these conditions in the OFR's *Drafting Legal Documents* under Cross References.

Referring to other material in regulations

A cross-reference to material that does not appear in the *Federal Register* or the Code of Federal Regulations is called an "incorporation by reference" by the Office of the Federal Register. The OFR has very specific rules that agencies must follow to do incorporation by reference. You will find them in Chapter 6 of the OFR's *Document Drafting Handbook*.

Avoid these situations

Multiple cross-references in one section. Multiple cross-references make your reader's head spin, and you will fail to deliver any useful information. Reorganize your material to eliminate the cross-references, or at least to keep them to no more than one in each section.

Unnecessary cross-references you put in to be sure that your audience don't miss something that applies to them. You won't know where to stop cross-referencing. You should presume that readers will familiarize themselves with your document to see what applies to them. Make sure your table of contents and headings are informative enough that readers can find everything they need.

Cross-referencing definitions. Adding a cross-reference to a definition for the convenience of the reader may create a problem if you don't continue to repeat it every time you use the word.

| If you say | Then you can't later just say |
|---|--|
| a corporation as defined in Section 1 (when Section 1 clearly applies to your regulation and defines a corporation as having, for example, at least 50 employees) | a corporation (Some readers may think the 50-employee limit doesn't apply here.) |

The "boomerang." Rudolf Flesch (1979) named this particularly insidious cross-reference. It's a reference that refers to the section it's found in. It sends readers on a futile hunt for another section of the same number, until they finally realize you are referring to the same section they were reading in the first place. If you mean "listed in paragraph (h) of this section" say it that way. The Office of the Federal Register's Document Drafting Handbook tells you the proper way to refer to something in the same section of a regulation.

The "all-inclusive" cross-reference. It's no help to your reader to say something like "As a permittee, you must comply with sections 542.6 and 543.10, and all other applicable laws and regulations." What exactly does the term "all other applicable laws and regulations" cover? Do you expect your reader to become a legal scholar and go out and research the answer to that question? This form of cross-reference reflects a lazy writer. And it's not likely to achieve much.

The never-ending story cross reference. This is the cross-reference that refers the reader to another section containing another cross-reference, which takes the reader to yet another section containing another cross-reference, and so on forever and ever. You probably can't follow the web of references, why do you think your reader will.

Final thoughts

Whether you use a cross-reference or repeat the material in the new location, you must remember to update the information if something in the cross-referenced material changes.

There is no hard and fast rule about when it's reasonable to use a cross-reference. It depends on the purpose of the cross reference and the bulk of the material referenced. The bottom line is that you should minimize them to the extent possible.

Sources

- Flesch, Rudolf, How to Write in Plain English, A Book for Lawyers and Consumers, 1979, Harper and Rowe, New York, pp. 82-93.
- Office of the Federal Register, Document Drafting Handbook, 1998, 1-15).
<http://www.archives.gov/federal-register/write/handbook/ddh.pdf>.

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Design your document for ease of reading

We want our documents to help readers get information, comply with requirements, and apply for benefits with the minimum possible burden. Documents that appear cluttered and dense create a negative reaction in the minds of our readers. We've heard many times from readers that when they get a dense, uninviting document from the government, they often put it in the "to be read later" pile, even though they know they should read it right away.

Document design is an important part of developing an effective document. Documents that are easy on the eye are far easier to understand than more traditional styles. You can use design elements to highlight important points and to ensure your reader reads the most important parts of the document.

Even with regulations and the limits of publishing in the Code of Federal Regulations, you can replace blocks of text with headings, tables, and lists to create more white space. Short sentences and sections will also break up a regulation into visually manageable chunks. You will help your reader by making the main points readily apparent and grouping related items together. The easier it is for your reader to get through the regulation, the more likely it is they will comply with its requirements.

Here are a few brief guidelines for good document design:

- Have five or six sections on each printed page (about two on each typewritten page)
- Use lists and tables often, but don't overuse them and don't have lists within lists
- Use ragged margins where possible, rather than fully justifying your text

Sources

- Schriver, Karen, *Dynamics in Document Design: Creating Text for Readers*, 1996, John Wiley and Sons, Hoboken, NJ.

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Testing Your Documents

Testing your documents should be an integral part of your plain language writing process, not something you do afterwards to see if your document is a success. It's especially important if you're writing to hundreds, thousands, or even millions of people. The information gained in testing can save time in answering questions about your document later.

Types of testing

You can do either qualitative (What do people think about it?) or quantitative (Do the numbers show that this is a success or failure?) testing.

- Protocol testing and focus groups produce qualitative data.
- Control groups produce quantitative data.

Focus groups are conducted with a small group of people (usually 8-12). They are valuable for gathering information about how people feel about a document. Participants will tell you if they like or dislike something. They will tell you if they understand what you are doing. And they may even tell you a better way to do something.

Prepare a moderator's guide (a list of questions or script for the moderator) in advance. Preferably, the moderator should be a neutral person—not someone involved in developing the document. Design the questions to generate a discussion among the participants about the document they are reviewing. Be objective; don't ask leading questions that will bias the answers. In professional settings, you can use a one-way mirror for observers (usually those with a stake in the project) to watch the participants. This is valuable because it prevents observers' expressions from swaying the participants. Focus groups can be taped to allow the moderator to write an accurate final report. Of course, you need the group members' permission to watch or tape the session.

While focus groups are valuable in some situations, they are not usually an effective way to test the usability of a document, or to learn how well an individual really understands what you have written.

Protocol Testing involves a one-on-one interview with a reader. It will tell you what a reader thinks a document means. It is valuable in determining if the reader is interpreting your message the way you intended.

You should conduct 6 to 9 interviews on each document. Ask the reader to read to a specific cue (usually a dot identifying a stopping point). Each time the reader reaches a cue, ask for an explanation of what that section means. At the end of the document, ask additional questions, such as.

- What would you do if you got this document.
- Do you think the writer was trying to help you.
- Do you think your friends would understand this document?

This last question is important because sometimes people are more comfortable telling you what they think others might find confusing, rather than admitting that they don't understand something themselves.

You should use a different type of protocol testing when evaluating long documents, like booklets and regulations. You may know this type of testing as Usability Testing. In this testing, not only do you test for comprehension, but you also make notes about the way the reader uses the document. For instance you would note how often a reader has to flip from page to page to find references. In other words, you test the document as a whole, not just individual paragraphs.

Protocol testing is time consuming. But the time invested is worth it. Taking the time to test your document up front may save you hundreds of hours later answering questions from your readers, or even producing a second document clarifying the first one.

In this example, the information was so general that it would have generated calls:

Veterans Benefits Administration tested a letter in which readers appeared to understand every word. However, when asked what they would do if they got this letter, most people said they would call VBA's toll-free number.

The letter was about a replacement check sent because the original check was now out of date. The letter said, "You will receive the new check shortly." Readers indicated that they would call if they didn't receive the check at the same time as the letter. Changing

the sentence to show an approximate date they would receive the check eliminated countless phone calls.

In this example, a “term of art” that VBA thought veterans understand would have caused readers to take the wrong action:

When testing a multi-use letter, some readers were confused by the term "service-connected disability." To VBA it means that a veteran has a disability that can be traced back to time in military service." Protocol tests showed that one veteran thought it meant a disability that happened at work. Another thought it meant you had to be injured while in the military, but not necessarily while on duty. Another thought you had to have gotten the disability during combat for it to be considered service-connected.

When each reader was asked a general question about understanding the letter, they all said that it was clear. Yet several would have done something different than what VBA wanted because they had a different definition of "service-connected." The solution was to explain the phrase so that everyone was working from the same definition.

In this example, adding a word to make something more legally sufficient would have caused readers to give incorrect information:

A team working on a form wanted to use the question, “When were you last (gainfully) employed?” They felt that the term “gainfully employed” would gather more legally sufficient and accurate information than just the word “employed.”

Testing showed at least three different definitions of “gainful” employment:

- Any job
- A job that provides benefits or where you can put money away
- A job that keeps you above poverty level

In fact, we learned that different government agencies may have different definitions of “gainful.” But, more importantly, because each reader had a different definition of the word, the agency would have gotten less accurate information if the word had been in the document.

Remember, the goal of protocol testing is to ensure that your readers understand your document, and therefore won't have to call you for an explanation. Although this technique is very valuable, it probably isn't worth the time to test documents that go to only one or a very few people.

Control Studies allow you to collect quantitative data on how well the general public uses the final document you've produced. Control studies can be done in several different ways, but they all have similar characteristics. Before you do a control study, you should know what results you will consider a success. For instance.

- Do you want more calls regarding a certain program.
- Do you want fewer calls asking for clarification.
- Do you want more people to return an application or a payment.
- Do you want fewer errors on forms people fill out?

Having answers to these questions will help you determine whether your document is successful.

Send a small test group of people the new version of your document. Let's say you're sending the new version to 700 people. You should also send 700 people, your control group, the old document. Track the responses to all 1400 documents and compare the results. Note that it is significantly easier to test results when people return a written response than when you try to track the number of phone calls you receive. (If you have a statistician or actuarial staff, they can tell you how many people you should use to make your study scientifically valid. If your agency doesn't have an expert on staff to help you, statistics books will give you a formula to determine a good sample size for your study.)

There are numerous other ways of collecting quantitative data. For instance, you can record what percentage of your "before" letters generates correct responses compared to your "after letters," or what percentage of each letter results in your customer calling you asking for an explanation.

You should use control studies after your qualitative testing is completed and you believe you have the best possible document. That's because control testing will tell you *if* the new document is a success, but it won't tell you *why* it is or isn't a success.

When to use what tool

Like any good tool, focus groups, protocol tests and control studies are most successful when used for their intended purpose. The chart below will show you the best times to use different methods of testing documents. Focus Groups and Control Groups are optional depending on what type of document you are rewriting. But for documents that will be read by a large number of people, protocol testing is essential to help you

know where you should change your document. The chart below shows the most effective times to use each tool.

| Testing Method | When to Use It | What You will Get |
|--|---|---|
| Protocol Test/ Usability Testing (qualitative) | After completing a final draft of your document | <ul style="list-style-type: none"> • Specific information about what the reader thinks your document means. • Information about what they will do with the document when they receive it. • Observations about how they read your document and how well they can follow the format. <p>Base any revisions to the document on this information.</p> |
| Focus Groups (qualitative) | Before rewriting an old, usually lengthy, document | <ul style="list-style-type: none"> • Information about how readers feel about the old document; what they like and don't like. • What information they need that they don't have. • This can be a basis for how you rewrite the new document. |
| | After rewriting to compare the format of different versions of a document | <ul style="list-style-type: none"> • When used to decide on format, the content should already be protocol tested. And the content should be the same for each version. |
| Control Group (quantitative) | After protocol testing and revising a document or during a pilot | <ul style="list-style-type: none"> • Data about how many people did what you wanted. • A comparison between the old document and the new document. • A comparison of two different versions of the same document <p>This information can help demonstrate the success of the rewrite.</p> <p>Or, if you are doing a pilot project and people</p> |

| Testing Method | When to Use It | What You will Get |
|-----------------------|-----------------------|---|
| | | disagree about how to write a document, a test mailing of two different versions should produce a clear decision on which is more usable for your audience. |

Make sure to pick the right tool, or your results will not give you the information you want.

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