

## Google Groups

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**Fwd: The role of a preamble in an IBR**

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me <miriam.vincent@nara.gov>

Nov 13, 2013 8:10 AM

Posted in group: **Federal Register Legal**

Dear Mr. Cooper,

The preamble is a required section of all final rules published in the Federal Register (See, 1 CFR 18.12), but is not a prescriptive part of the document. It explains the basis and purpose of the regulatory text, and allows the issuing agency to include any information relevant to the rulemaking, but doesn't contain any regulatory text. Here's a link to our Document Drafting Handbook Chapter 2. <http://www.archives.gov/federal-register/write/handbook/chapter-2.pdf>

Respectfully,

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On Mon, Nov 4, 2013 at 3:32 PM, Scott Cooper <[SCooper@ansi.org](mailto:SCooper@ansi.org)> wrote:

Dear Ms. Bunk,

The proposed NPRM on Incorporation by Reference [Docket Number OFR-13-0001] suggests using a preamble for a) summarizing material an agency proposes to make an IBR, and b) "Discussing in the preamble the ways in which it worked to make materials it incorporates reasonably available to interested parties, and how interested parties can obtain the materials" [new language suggested for 51.5]

My question is on b).

On page 60795 of the *Federal Register* IBR NPRM, [10/2/13] it states that "Any document that is published in the *Federal Register* is automatically part of the Federal record, with its own permanent citation, so IBRing a preamble for example would only create a more-complicated citation system with no apparent benefit."

How does a preamble fit within the IBR publication? Is this considered a prescriptive part of the document? Having worked for the House of Representatives, I understand the use of "whereas" clauses in a bill to describe the genesis and goals of the legislation in question. But a "whereas"

clause was –as far as I remember -- not considered a prescriptive part of the legislation. Will an IBR preamble be similar to that legislative approach?

Best regards,

Scott Cooper

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