

From: [Scott Cooper](#)
To: [Emily Bremer](#)
Subject: The role of a preamble in an IBR
Date: Friday, November 01, 2013 8:24:09 AM
Attachments: [PART 51.docx](#)
[NARA IBR FED REG 10 2 13-2013-24217 \(3\).pdf](#)

Dear Emily,

I am parsing the NARA response to Peter and wanted to share some of my thoughts & ask for yours.

In particular, I would love to get your advice on how to interpret the NARA NPRM suggestion to agencies to use 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]

The question that is stumping me is b). (I like a)...))

On page 60795 of the *Federal Register* IBR NPRM, 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."

Have you given any thought – as the world's foremost expert on all that is IBR -- as to how a preamble would fit within the IBR publication? Is this considered a prescriptive part of the document? Having written my fair share of "whereas" clauses for House legislation, I understand the need to describe the genesis and goals of the legislation in question. But a "whereas" clause –as far as I remember – was not considered a prescriptive part of the legislation. Is it likely that an IBR preamble be similar to that legislative approach? And if not, what kind of beast are we describing here?

Also, where does the "reasonable availability" language first show up? I have done a quick search of NTTAA and A-119 & couldn't locate it. Did I just miss it?

Also (part II),, I went to the ACUS meeting this week on "Improving the Timeliness,

Transparency & Effectiveness of OIRA Reg Review" (don't get me started on OMB's extended sit-in on A-119...). I saw Neil Eisner there (now ex-DOT?) with a new title of Savant Emeritus, or it could have been Senior Fellow (or even Jolly Good Fellow – tho Neil is probably too serious for that title). Do you have his coordinates? I'd like to reach out to him and compare notes on this & that.

Also (part III), am happy to hear that the teaching search is going well. (Happy for you, that is...). I would love to see if we can find time to have lunch & also catch up. Teaching at GW again & still having a good time (except grading papers & finals). Will never be my day job, but I want it to be part of whatever comes next in my life (perhaps becoming a brewmiester...)

Best

Scott