Chapter 3 Composition and Content of Rulemaking Documents **202 FW 3**

3.1 What is the purpose of this chapter? This chapter expands on the guidance provided in the Departmental Manual at 318 DM and the Office of the Federal Register's (OFR) Document Drafting Handbook about how to write a rulemaking document and what it should include.

3.2 What are the different parts of a rule? A rulemaking document consists of several parts, including the billing code, headings, preamble, list of subjects, words of issuance, regulatory text, and signature block.

A. Billing code. Federal Register (FR) billing codes are unique to each Federal agency. These codes tell the Government Printing Office (GPO) which agency to charge for printing services in the FR. When you submit a document to OFR, put 4310–55 at the top of your document, as shown in Figure 3–1.

B. Headings. OFR specifies the headings that we must use in FR documents. Our FR document headings must include the separate lines shown in Figure 3–1, and they must be in this order.

Figure 3-1 FR Document Headings

Billing Code 4310–55
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
CFR citation (e.g., 50 CFR 17)
[Docket No. FWS–[region]–[program]–year–####]
[Program accounting and ABC codes]
RIN 1018–####
Subject heading (the title of the rule)

(1) Federal Docket Management System (FDMS) Docket Number: For the first document in a rulemaking action, FDMS automatically will assign a Docket Number (see 202 FW 5). The Docket Numbers are a series of letters and numbers with hyphens in between. The letters and numbers are abbreviations for the Service, the Region issuing the rule, the program issuing the rule, the year that work on the rule began, and a chronological number issued by FDMS. Put "Docket No." before these number-and-letter combinations, and put the entire line in brackets.

(2) Program accounting and ABC codes: Get these numbers from your program's administrative officer. PDM uses these numbers to bill the programs for the cost of publishing their FR documents. Put these codes in brackets.

(3) RIN: This is a Regulation Identifier Number, which appears on every document published for a rulemaking action (e.g., ANPR, proposed rule, final rule). You get this number from PDM (see 202 FW 1 and 2 for more information on RINs).

(4) Do not use any punctuation at the end of any heading in Figure 3–1.

C. Preamble. The preamble of a rulemaking document explains the basis and purpose of the regulatory text. OFR specifies requirements for preambles. Following the headings, you must use the captions in the order in which they appear in Figure 3–2. You may not alter these captions. They appear in **bold.** The text following the captions must end in a period (see Figure 3–2).

Figure 3-2 Preamble Captions

AGENCY: Fish and Wildlife Service, Interior.

ACTION:

SUMMARY:

DATES:

ADDRESSES:

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

(1) AGENCY: In this area, put the following: Fish and Wildlife Service, Interior.

(2) ACTION: This caption describes the type of document. Consult the Document Drafting Handbook for appropriate text. An example of an ACTION line is "Proposed rule."

(3) SUMMARY: Keep this section brief. The summary for an FR document should answer only the following questions: What action is being taken? Why is this action necessary? What is the intended effect of this action? The SUMMARY should not prove a point or provide detailed supporting information. That information belongs in SUPPLEMENTARY INFORMATION. **Do not put references to the United States Code or the Code of Federal Regulations in the SUMMARY.**

(4) DATES: Use the language we provide in Exhibit 1.

(5) ADDRESSES: Use the language we provide in Exhibit 1. If necessary, you may add addresses—for example, to announce the locations of public meetings. OFR prefers that this caption include no more than four addresses. If you have more than four addresses, put them under SUPPLEMENTARY INFORMATION. Do not include any dates.

(6) FOR FURTHER INFORMATION CONTACT: A name and telephone number are all that is necessary.

(7) SUPPLEMENTARY INFORMATION: You should put all explanatory information for the rule in this section. Provide the scientific basis for the rule and our rationale; both are vital to issuing good public policy. The Document Drafting Handbook and 318 DM provide helpful information to keep in mind when drafting this section. You should also include information on how to send comments in to the Service and the availability of public comments.

(a) Use this section:

(i) In proposed rules, to explain to the public why we are considering issuing the rule and how to submit comments. Use the language we provide in Exhibit 1.

(ii) In a final rule, to address comments and any additional information received on the proposed rule. To satisfy the Administrative Procedure Act, the SUPPLEMENTARY INFORMATION section of a final rule must include a concise statement of the basis and purpose of the rule.

(b) Include in this section:

(i) Our determinations based on statutes and Executive Orders that govern the rulemaking process, including E.O. 12866.

(ii) At the end of the preamble just before the regulatory changes, "words of issuance" are always in the present tense—e.g., "For the reasons we discuss in the preamble, we amend 50 CFR part 17 as we describe below:".

D. Regulatory text. This section of the rule contains the actual requirements we are placing on the public. Clarity is vital. Federal regulations must be understandable and defensible. For help with drafting amendatory language, which instructs the OFR about how to change the CFR, consult the Document Drafting Handbook. Amendatory language must meet specific OFR requirements. You must also adhere to 116 FW 1, Plain Language in Fish and Wildlife Service Documents, when writing your rule. PDM can help you.

3.3. Do significant rules have specific drafting requirements? If OMB designates your rule as significant (see 202 FW 2.3), you must state in the preamble that the rule is significant and that OMB has or has not reviewed the rule. Use the language in Figure 3-3.

Figure 3-3: E.O. 12866 Language

Regulatory Planning and Review:

The Office of Management and Budget (OMB) has determined that this rule is [not] significant under Executive Order 12866 (E.O. 12866). OMB bases its determination on the following four criteria:
(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government;
(b) Whether the rule will create inconsistencies with other Federal agencies' actions;
(c) Whether the rule will materially affect entitlements, grants, use fees, loan programs, or the rights and obligations of their recipients; or
(d) Whether the rule raises novel legal or policy issues.

3.4 What do I need to know if my proposed rule includes an information collection as defined by the Paperwork Reduction Act?

A. If you include an information collection requirement in a regulation in the CFR, you must get OMB approval no matter how many respondents you expect (even if you only expect one).

B. When a proposed rule contains an information collection requirement, you must submit an information collection request (ICR) to OMB at the same time the proposed rule publishes.

C. You cannot publish a final rule until OMB has approved the information collection requirements. Because OMB does not usually approve the information collection at the proposed rule stage, you will likely have to submit another ICR to OMB to be approved before the final rule publishes.

D. For further information on information collections associated with rulemakings, see 281 FW 5.

3.5 What does the Office of the Federal Register require when I submit documents? OFR requires that you:

A. Double-space the document and print it on plain white paper with the left margin at 1½ inches and all other margins at 1 inch.

B. Put page numbers in the bottom center, top center, or upper right corner of each page.

C. Prepare all text in accordance with the *GPO Style Manual*.

D. Print or type the name and title of the person who signed the document beneath the signature on the document. (For more information about who signs rulemaking documents, see 202 FW 1.) The OFR will not accept a document signed for someone else, nor will OFR accept a document that does not have the printed/typed name and title of the person who signed the document. Prepare the signature page of the document using the following guidelines.

(1) Text on signature page. Every FR document must have at least four lines of text on the signature page above the signature block. OFR requires this, and often the Department enforces it before clearing FR documents. Figure 3-4 shows examples of incorrect and correct signature pages.

Figure 3-4 Signature Page Examples

Unacceptable signature page example

Dated: 11/14/08

Sara Prigan,
Federal Register Liaison.

Note: This signature page is not acceptable, because there is no notice text above the signature block. There must be at least four lines of notice text above the signature block.

Acceptable signature page example 1

of an application for a right-of way permit to install a natural gas pipeline under lands within the refuge. Because the company has abandoned the route that would have crossed the refuge in favor of an alternative route which bypasses the refuge, we announce now that we withdraw our earlier request for public comments.

Dated: 11/14/08

Sara Prigan,
Federal Register Liaison.

Acceptable signature page example 2

Dated: 11/14/08

Sara Prigan,
Federal Register Liaison.

~~Anytown Expansion Project, The Gas Company LLC, Right-of-Way Permit Application To Cross Anytown National Wildlife Refuge, Any County, AS; Withdrawal~~

Note: The Office of the Federal Register accepts this as an alternative way to make a signature page acceptable even if there is no notice text above the signature. What you can do is repeat the title of the notice (the line after "Fish and Wildlife Service" and your tracking/cost codes on page 1 of your notice) on the last page, under the signature block, and then cross it out. However, having text above the signature (Acceptable signature page example 1) is preferable.

(2) Signature block (or signature line).

(a) Print or type the name and title of the person who signs the document beneath the inked signature on the document. The signature and the printed or typed name must agree. OFR will not accept a document signed by one person for someone else. See the examples in Figure 3–5.

Figure 3–5 Signature Line Examples

In both sets of examples below, John Doe is the Regional Director. Exene Cervenka occasionally acts for him when he is out.

The following signature lines are unacceptable. OFR would call PDM about these, and publication could be **delayed**.

Exene Cervenka
Exene Cervenka
For John Doe,
Regional Director.

John Doe
Regional Director.

Exene Cervenka
Exene Cervenka,
for Regional Director.

Exene Cervenka
~~John Doe,~~
Regional Director.

The following signature lines are **acceptable**. Note: When you hand-write additional text, initial your change in the margin. In these examples, Service employee Victoria Williams has initialed changes in the margin.

John Doe
John Doe,
Regional Director.

John Doe
John Doe
Regional Director. VW

Exene Cervenka
Exene Cervenka, VW
Acting Regional Director.

Exene Cervenka
Exene Cervenka,
Acting Regional Director.

Exene Cervenka
~~John Doe~~ Exene Cervenka VW
Acting Regional Director

(b) In the electronic document (Microsoft Word or XML document), make sure you have typed the signer's name. Do not leave a blank space in the electronic document.

E. Submit three original signed copies or one original signed copy and two certified copies to OFR. See 202 FW 4 for information about certifying copies.

F. If the document has XML tagging, see Exhibits 2 and 3 because the requirements are slightly different. Submitting documents with XML tagging is an optional process that reduces printing costs.

/sgd/ Daniel M. Ashe
DEPUTY DIRECTOR

Date: April 12, 2010