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## Use Smaller Categories To Convey Precise Information

### Offering unnecessary alternatives creates ambiguity

By Kenneth F. Oettle

**L**egal thinking is like a telephoto lens — it zooms in and zooms out.

For example, it zooms in when you hunt for just the right word or phrase, and it zooms out when you seek common ground between your case and one you wish to cite as precedent. In the first instance, you narrow your focus and home in on a word or phrase that is unambiguous and accurate. In the latter instance, you widen your focus to find a category broad enough to encompass both your case and the desired precedent, but not so broad that it is meaningless. To invoke *stare decisis*, you may have to zoom out.

This column is about zooming in — choosing words to state exactly what you mean. When you choose the right word, not only do you achieve accuracy, but you eliminate ambiguity by avoiding the alternatives that might be suggested by the wrong word.

In the paragraph below, the writer sought to convey that coverage under a statute regulating the storage of hazardous substances expanded to include smaller facilities. Instead of saying the statute “expanded to include” or “expanded to cover” smaller facilities, the writer said the law “was amended to

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cover” them, leaving the reader to deduce that “amended” meant “expanded.”

The original act defined “major facilities” as those having the capacity to store 400,000 gallons of hazardous substances of any kind. Several years later, the law was amended to cover



MAKING  
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**A Guide to Persuasive Writing**

facilities having the capacity to store at least 50,000 gallons if the hazardous substances are other than petroleum. Last year, the law was amended to cover facilities that can store at least 200,000 gallons of petroleum and facilities that can store at least 20,000 gallons of non-petroleum hazardous substances.

The word “amended” embraces at least three subsets (subcategories): “expanded,” “contracted” and “clarified.” It forces the reader to ask, “How

was the statute amended? Did coverage expand or contract, or was it merely clarified?” Having to identify subcategories, select one and discard the rest makes work for the reader and interrupts the message.

The ambiguity in the word “amended” is compounded in the above paragraph because expansion of regulatory coverage seems at odds with a reduction in gallonage. Expansion denotes increase, whereas reduction denotes decrease. A moment’s thought is required to deduce that coverage has expanded because the amended statute now applies to facilities that store fewer gallons.

Thus, the reader of the paragraph faces a dual hurdle — ambiguity in the word “amended” and seeming inconsistency between expanded coverage and reduced gallonage. Merely identifying the lower gallonage threshold — 50,000 gallons — does not by itself overcome these hurdles.

Using “expanded” rather than “amended” would reduce the ambiguity and make the paragraph more accessible:

The original act defined “major facilities” as those having the capacity to store 400,000 gallons of hazardous substances of any kind. Several years later, the law expanded to include facilities having the capacity to store at least 50,000 gallons if the hazardous substances are other than petroleum. Last year, the law further expanded to include facilities that can store at least 200,000 gallons of petroleum and facilities that can store at least 20,000 gal-

lons of non-petroleum hazardous substances.

You might also say that “coverage expanded to include” (as opposed to “the law expanded to include”) or that “the law expanded to cover.” “Include” connotes a gathering and suggests the statute is “putting its arms around” more. “Cover” connotes a larger regulatory umbrella. Both work. The conventional phrase is “expanded to include.”

Even with the foregoing change (including the boost from the active verb “expanded” instead of the passive verb “was amended”), the reduction of the threshold for non-petroleum hazardous substances from 400,000 to 50,000 gallons is difficult to follow because regulatory coverage increases as the gallonage threshold decreases. The paragraph would improve if recast around the central idea — reduction of the gallonage threshold:

The original act defined “major facilities” as those having the capacity to store at least 400,000 gallons of any kind of

hazardous substance. Several years later, the legislature expanded coverage of non-petroleum facilities by reducing the gallonage threshold for such facilities to 50,000. Last year, the now dual thresholds were further reduced — to 200,000 gallons for petroleum facilities and 20,000 gallons for non-petroleum facilities.

The first and second revised paragraphs illustrate two points about writing:

1. Using subcategories — for example, “expansion” as a subcategory of “amendment” — streamlines the message.

2. If you are having trouble articulating an idea, ask yourself what your point is or what your main fact is. Here, the main fact was the reduction of the gallonage threshold. When the key sentence was recast around that concept, it went directly to the point.

### *Puzzler*

How would you tighten and sharp-

en the following sentence?

Review with the assistance of your expert the articles and treatises relied on by the opposing expert.

When the reader sees a verb (“review”), the reader wants to know the object of the verb, which in this case is “articles and treatises.” The phrase “with the assistance of your own expert” is interruptive and should be moved to the beginning of the sentence.

The revised version:

With the assistance of your expert, review the articles and treatises relied on by the opposing expert.

Alternate:

Have your expert help you review the articles and treatises relied on by the opposing expert. ■