

Union Calendar No.

118TH CONGRESS
1ST SESSION

H. R. 890

[Report No. 118-]

To increase access to agency guidance documents.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2023

Mr. COMER (for himself, Mr. PERRY, Mr. BIGGS, Mr. HIGGINS of Louisiana, Mr. BURCHETT, Mr. SESSIONS, Ms. FOXX, Ms. MACE, Mrs. BOEBERT, Mr. FRY, and Mr. PALMER) introduced the following bill; which was referred to the Committee on Oversight and Accountability

JULY --, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 9, 2023]

A BILL

To increase access to agency guidance documents.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Guidance Out Of Dark-*
5 *ness Act of 2023” or the “GOOD Act of 2023”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *AGENCY.*—*The term “agency” has the mean-*
9 *ing given that term in section 551 of title 5, United*
10 *States Code.*

11 (2) *DIRECTOR.*—*The term “Director” means the*
12 *Director of the Office of Management and Budget.*

13 (3) *GUIDANCE DOCUMENT.*—

14 (A) *DEFINITION.*—*The term “guidance doc-*
15 *ument”*—

16 (i) *means an agency statement of gen-*
17 *eral applicability (other than a rule that*
18 *has the force and effect of law promulgated*
19 *in accordance with the notice and comment*
20 *procedures under section 553 of title 5,*
21 *United States Code) that—*

22 (I) *does not have the force and ef-*
23 *fect of law; and*

24 (II) *is designated by an agency*
25 *official as setting forth—*

1 (aa) a policy on a statutory,
2 regulatory, or technical issue; or

3 (bb) an interpretation of a
4 statutory or regulatory issue; and

5 (ii) may include—

6 (I) a memorandum;

7 (II) a notice;

8 (III) a bulletin;

9 (IV) a directive;

10 (V) a news release;

11 (VI) a letter;

12 (VII) a blog post;

13 (VIII) a no-action letter;

14 (IX) a speech by an agency offi-
15 cial; and

16 (X) any combination of the items
17 described in subclauses (I) through
18 (IX).

19 (B) *RULE OF CONSTRUCTION.*—The term
20 “guidance document”—

21 (i) shall be construed broadly to effec-
22 tuate the purpose and intent of this Act;
23 and

24 (ii) shall not be limited to the items
25 described in subparagraph (A)(ii).

1 **SEC. 3. PUBLICATION OF GUIDANCE DOCUMENTS ON THE**
2 **INTERNET.**

3 (a) *IN GENERAL.*—Subject to subsection (d), on the
4 date on which an agency issues a guidance document, the
5 agency shall publish the guidance document in accordance
6 with the requirements under subsection (c).

7 (b) *PREVIOUSLY ISSUED GUIDANCE DOCUMENTS.*—
8 Subject to subsection (d), not later than 180 days after the
9 date of enactment of this Act, each agency shall publish,
10 in accordance with the requirements under subsection (c),
11 any guidance document issued by that agency that is in
12 effect on that date.

13 (c) *SINGLE LOCATION.*—

14 (1) *IN GENERAL.*—All guidance documents pub-
15 lished under subsections (a) and (b) by an agency
16 shall be published in a single location on an internet
17 website designated by the Director under paragraph
18 (4).

19 (2) *AGENCY INTERNET WEBSITES.*—Each agency
20 shall, for guidance documents published by the agency
21 under subsections (a) and (b), publish a hyperlink on
22 the internet website of the agency that provides access
23 to the guidance documents at the location described in
24 paragraph (1).

25 (3) *ORGANIZATION.*—

1 (A) *IN GENERAL.*—*The guidance documents*
2 *described in paragraph (1) shall be—*

3 (i) *categorized as guidance documents;*

4 *and*

5 (ii) *further divided into subcategories*
6 *as appropriate.*

7 (B) *AGENCY INTERNET WEBSITES.*—*The*
8 *hyperlinks described in paragraph (2) shall be*
9 *prominently displayed on the internet website of*
10 *the agency.*

11 (4) *DESIGNATION.*—*Not later than 90 days after*
12 *the date of enactment of this Act, the Director shall*
13 *designate an internet website on which guidance doc-*
14 *uments shall be published under subsections (a) and*
15 *(b).*

16 (d) *DOCUMENTS AND INFORMATION EXEMPT FROM*
17 *DISCLOSURE UNDER FOIA.*—*If a guidance document*
18 *issued by an agency is a document that is exempt from dis-*
19 *closure under section 552(b) of title 5, United States Code*
20 *(commonly known as the “Freedom of Information Act”),*
21 *or contains information that is exempt from disclosure*
22 *under that section, that document or information, as the*
23 *case may be, shall not be subject to the requirements under*
24 *this Act.*

1 (e) *RESCINDED GUIDANCE DOCUMENTS.*—*On the date*
2 *on which a guidance document issued by an agency is re-*
3 *scinded, or, in the case of a guidance document that is re-*
4 *scinded pursuant to a court order, not later than the date*
5 *on which the order is entered, the agency shall, at the loca-*
6 *tion described in subsection (c)(1)—*

7 (1) *maintain the rescinded guidance document;*
8 *and*

9 (2) *indicate—*

10 (A) *that the guidance document is re-*
11 *scinded;*

12 (B) *if the guidance document was rescinded*
13 *pursuant to a court order, the case number of the*
14 *case in which the order was entered; and*

15 (C) *the date on which the guidance docu-*
16 *ment was rescinded.*