

Suspend the Rules and Pass the Bill, H.R. 890, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

118TH CONGRESS
2^D SESSION

H. R. 890

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

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
5 Darkness Act” or the “GOOD Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) AGENCY.—The term “agency” has the
2 meaning given the term in section 551 of title 5,
3 United States Code.

4 (2) DIRECTOR.—The term “Director” means
5 the Director of the Office of Management and Budget.
6 et.

7 (3) GUIDANCE DOCUMENT.—

8 (A) IN GENERAL.—The term “guidance
9 document”—

10 (i) means an agency statement of gen-
11 eral applicability (other than a rule that
12 has the force and effect of law promul-
13 gated in accordance with the notice and
14 comment procedures under section 553 of
15 title 5, United States Code) that—

16 (I) does not have the force and
17 effect of law; and

18 (II) is designated by an agency
19 official as setting forth—

20 (aa) a policy on a statutory,
21 regulatory, or technical issue; or

22 (bb) an interpretation of a
23 statutory or regulatory issue; and

24 (ii) may include—

25 (I) a memorandum;

- 1 (II) a notice;
- 2 (III) a bulletin;
- 3 (IV) a directive;
- 4 (V) a news release;
- 5 (VI) a letter;
- 6 (VII) a blog post;
- 7 (VIII) a no-action letter;
- 8 (IX) a speech by an agency offi-
- 9 cial; and
- 10 (X) any combination of the items
- 11 described in subclauses (I) through
- 12 (IX).

13 (B) RULE OF CONSTRUCTION.—The term
14 “guidance document”—

15 (i) shall be construed broadly to effec-
16 tuate the purpose and intent of this Act;
17 and

18 (ii) shall not be limited to the items
19 described in subparagraph (A)(ii).

20 **SEC. 3. PUBLICATION OF GUIDANCE DOCUMENTS ON THE**
21 **INTERNET.**

22 (a) IN GENERAL.—Subject to section 5, on the date
23 on which an agency issues a guidance document, the agen-
24 cy shall publish the guidance document in accordance with
25 the requirements under section 4.

1 (b) PREVIOUSLY ISSUED GUIDANCE DOCUMENTS.—
2 Subject to section 5, not later than 180 days after the
3 date of enactment of this Act, each agency shall publish,
4 in accordance with the requirements under section 4, any
5 guidance document issued by that agency that is in effect
6 on that date.

7 **SEC. 4. SINGLE LOCATION.**

8 (a) IN GENERAL.—All guidance documents published
9 under section 3 by an agency shall be published in a single
10 location on an internet website designated by the Director
11 under subsection (d).

12 (b) AGENCY INTERNET WEBSITES.—Each agency
13 shall, for guidance documents published by the agency
14 under section 3, publish a hyperlink on the internet
15 website of the agency that provides access to the guidance
16 documents at the location described in subsection (a).

17 (c) ORGANIZATION.—

18 (1) IN GENERAL.—The guidance documents de-
19 scribed in subsection (a) shall be—

20 (A) categorized as guidance documents;

21 and

22 (B) further divided into subcategories as
23 appropriate.

24 (2) AGENCY INTERNET WEBSITES.—The
25 hyperlinks described in subsection (b) shall be

1 prominently displayed on the internet website of the
2 agency.

3 (d) DESIGNATION.—Not later than 90 days after the
4 date of enactment of this Act, the Director shall designate
5 an internet website on which guidance documents shall be
6 published under section 3.

7 **SEC. 5. DOCUMENTS AND INFORMATION EXEMPT FROM**
8 **DISCLOSURE UNDER FOIA.**

9 If a guidance document issued by an agency is a doc-
10 ument that is exempt from disclosure under section 552(b)
11 of title 5, United States Code (commonly known as the
12 “Freedom of Information Act”), or contains information
13 that is exempt from disclosure under that section, that
14 document or information, as the case may be, shall not
15 be subject to the requirements under this Act.

16 **SEC. 6. RESCINDED GUIDANCE DOCUMENTS.**

17 On the date on which a guidance document issued
18 by an agency is rescinded, or, in the case of a guidance
19 document that is rescinded pursuant to a court order, not
20 later than the date on which the order is entered, the
21 agency shall, at the location described in section 4(a)—

22 (1) maintain the rescinded guidance document;

23 and

24 (2) indicate—

1 (A) that the guidance document is re-
2 scinded;

3 (B) if the guidance document was re-
4 scinded pursuant to a court order, the case
5 number of the case in which the order was en-
6 tered; and

7 (C) the date on which the guidance docu-
8 ment was rescinded.

9 **SEC. 7. RULES OF CONSTRUCTION.**

10 (a) **VALIDITY OF GUIDANCE DOCUMENTS.**—Nothing
11 in this Act shall be construed to mean that noncompliance
12 with any provision of this Act affects or otherwise impacts
13 the validity of any guidance document.

14 (b) **CONGRESSIONAL REVIEW OF GUIDANCE DOCU-**
15 **MENTS.**—Nothing in this Act shall be construed to affect
16 or otherwise impact whether a guidance document is sub-
17 ject to congressional review under chapter 8 of title 5,
18 United States Code.

19 **SEC. 8. REPORT ON AGENCY COMPLIANCE.**

20 Not later than 5 years after the date of enactment
21 of this Act, the Comptroller General shall submit to the
22 Committee on Oversight and Accountability of the House
23 of Representatives and the Committee on Homeland Secu-
24 rity and Governmental Affairs of the Senate a report on
25 agency compliance with this Act.