

DOL's PRO Good Guidance Rule

Promoting Regulatory Openness through Good Guidance (PRO Good Guidance) Rule

Executive Order 13891 (EO) requires agencies to improve their process for issuing and using guidance. DOL's PRO Good Guidance Rule expands on the EO's requirements to ensure that DOL's guidance is appropriate, transparent, and accessible to the public.

BEFORE REVIEW



AN ESTIMATED
50,000

guidance document
pages in existence



ALMOST
11,700

guidance documents
in existence

AFTER REVIEW



APPROXIMATELY
12,000

guidance document
pages rescinded



NEARLY
3,200

guidance documents
rescinded

DOL's PRO Good Guidance Rule

On October 9, 2019, President Trump issued Executive Order 13891 (EO), "Promoting the Rule of Law through Improved Agency Guidance Documents," to create a fairer system for American businesses and workers, and clarify federal guidance.

This EO requires agencies to improve their process for issuing and using guidance. DOL's PRO Good Guidance Rule expands on the EO's requirements to ensure that the Department's guidance is appropriate, transparent, and accessible to the public.

Guidance documents can be invaluable, but only when used properly.

Guidance helps guide the public on how the agency operates, informs stakeholders of their rights and obligations, and serves other useful purposes. The rule doesn't change DOL's ability to use guidance for all these lawful goals.

Unlike regulations, guidance documents historically have not gone through processes that are transparent and provide for public participation.

Guidance should provide clarity about existing rights and obligations and help stakeholders comply with laws and regulations, not create new obligations or modify the law.

Agencies have sometimes improperly threatened penalties or promised rewards to coerce action beyond what the law requires. This misuse of guidance can undermine the rule of law.

Because of the potential ramifications of agency rules and the difficulty of challenging agency interpretations, agency guidance documents are often treated as legally binding, even if they technically are not.

DOL's PRO Good Guidance Rule:

- **Provides** processes for public notice-and-comment for significant guidance,
- **Allows** the public to petition DOL on its guidance, and
- **Requires** that all DOL guidance is available to the public.

Current guidance is now maintained in a single, searchable online database at dol.gov/guidance.



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