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

AFTER REVIEW

APPROXIMATELY
12,000
guidance document pages rescinded

ALMOST
11,700
guidance documents in existence

NEARLY
3,200
guidance documents rescinded
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.

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.