

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 380

To increase access to agency guidance documents.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CARPER

Viz:

1 On page 1, strike line 6 and all that follows through
2 page 5, line 17, and insert the following:

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

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

8 (2) GUIDANCE DOCUMENT.—

9 (A) DEFINITION.—The term “guidance
10 document”—

11 (i) means an agency statement of gen-
12 eral applicability, other than a rule, that—

1 (I) does not have the force and
2 effect of law; and

3 (II) is designated by an agency
4 official as setting forth—

5 (aa) a policy on a statutory,
6 regulatory, or technical issue; or

7 (bb) an interpretation of a
8 statutory or regulatory issue; and

9 (ii) may include—

10 (I) a memorandum;

11 (II) a notice;

12 (III) a bulletin;

13 (IV) a directive;

14 (V) a news release;

15 (VI) a letter;

16 (VII) a blog post;

17 (VIII) a no-action letter;

18 (IX) a speech by an agency offi-
19 cial; and

20 (X) any combination of the items
21 described in subclauses (I) through
22 (IX).

23 (B) RULE OF CONSTRUCTION.—The term
24 “guidance document”—

1 (i) shall be construed broadly to effec-
2 tuate the purpose and intent of this Act;
3 and

4 (ii) shall not be limited to the items
5 described in subparagraph (A)(ii).

6 **SEC. 3. PUBLICATION OF GUIDANCE DOCUMENTS ON THE**
7 **INTERNET.**

8 (a) IN GENERAL.—On the date on which an agency
9 issues a guidance document, the agency shall publish the
10 guidance document in accordance with the requirements
11 under subsection (c).

12 (b) PREVIOUSLY ISSUED GUIDANCE DOCUMENTS.—
13 Not later than 180 days after the date of enactment of
14 this Act, each agency shall publish, in accordance with the
15 requirements under subsection (c), any guidance docu-
16 ment issued by that agency that is in effect on that date.

17 (c) SINGLE LOCATION.—

18 (1) IN GENERAL.—All guidance documents pub-
19 lished under subsections (a) and (b) by an agency
20 shall be published in a single location on the Inter-
21 net website under section 206(d) of the E-Govern-
22 ment Act of 2002 (44 U.S.C. 3501 note) (commonly
23 known as regulations.gov).

24 (2) AGENCY INTERNET WEBSITES.—Each agen-
25 cy shall, for guidance documents published by the

1 agency under subsections (a) and (b), publish a
2 hyperlink on the Internet website of the agency that
3 provides access to the guidance documents at the lo-
4 cation described in paragraph (1).

5 (3) ORGANIZATION.—

6 (A) IN GENERAL.—The guidance docu-
7 ments described in paragraph (1) shall be—

8 (i) categorized as guidance docu-
9 ments; and

10 (ii) further divided into subcategories
11 as appropriate.

12 (B) AGENCY INTERNET WEBSITES.—The
13 hyperlinks described in paragraph (2) shall be
14 prominently displayed on the Internet website
15 of the agency.

16 (d) RESCINDED GUIDANCE DOCUMENTS.—On the
17 date on which a guidance document issued by an agency
18 is rescinded, the agency shall, at the location described
19 in subsection (c)(1)—

20 (1) maintain the rescinded guidance document;

21 and

22 (2) indicate—

23 (A) that the guidance document is re-
24 scinded; and

1 (B) the date on which the guidance docu-
2 ment was rescinded.