

118TH CONGRESS
1ST SESSION

H. R. 3770

To amend the definition of section 804 of title 5.

IN THE HOUSE OF REPRESENTATIVES

MAY 31, 2023

Mr. JOYCE of Ohio (for himself and Mr. GOLDEN of Maine) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the definition of section 804 of title 5.

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 “Limiting the Intrusive
5 Bureaucracy and Empowering Regulatory Transparency
6 for You Act” or the “LIBERTY Act”.

7 **SEC. 2. CONGRESSIONAL REVIEW OF AGENCY RULE-**
8 **MAKING.**

9 Section 804 of title 5, United States Code, is amend-
10 ed to read as follows:

11 **“§ 804. Definitions**

12 “For purposes of this chapter:

1 “(1) The term ‘Federal agency’ means any
2 agency as that term is defined in section 551(1).

3 “(2) The term ‘major rule’—

4 “(A) means any rule that the Adminis-
5 trator of the Office of Information and Regu-
6 latory Affairs of the Office of Management and
7 Budget finds has resulted in or is likely to re-
8 sult in—

9 “(i) an annual effect on the economy
10 of \$100,000,000 or more;

11 “(ii) a major increase in costs or
12 prices for consumers, individual industries,
13 Federal, State, or local government agen-
14 cies, or geographic regions; or

15 “(iii) significant adverse effects on
16 competition, employment, investment, pro-
17 ductivity, innovation, or on the ability of
18 United States-based enterprises to compete
19 with foreign-based enterprises in domestic
20 and export markets; and

21 “(B) includes significant guidance docu-
22 ments.

23 “(3) The term ‘rule’—

24 “(A) has the meaning given such term in
25 section 551, except that such term does not in-

1 clude (except as otherwise provided in subpara-
2 graph (B))—

3 “(i) any rule of particular applica-
4 bility, including a rule that approves or
5 prescribes for the future rates, wages,
6 prices, services, or allowances therefor, cor-
7 porate or financial structures, reorganiza-
8 tions, mergers, or acquisitions thereof, or
9 accounting practices or disclosures bearing
10 on any of the foregoing;

11 “(ii) any rule relating to agency man-
12 agement or personnel; or

13 “(iii) any rule of agency organization,
14 procedure, or practice that does not sub-
15 stantially affect the rights or obligations of
16 non-agency parties; and

17 “(B) includes guidance documents.

18 “(4) The term ‘guidance document’ means a
19 statement of general applicability and future effect,
20 other than a regulatory action, issued by a Federal
21 agency that sets forth—

22 “(A) a policy on a statutory, regulatory, or
23 technical issue; or

24 “(B) an interpretation of a statutory or
25 regulatory issue.

1 “(5) The term ‘significant guidance docu-
2 ment’—

3 “(A) means a guidance document dissemi-
4 nated to regulated entities or the general public
5 that may reasonably be anticipated to—

6 “(i) lead to an annual effect of
7 \$100,000,000 or more, or adversely affect
8 in a material way the economy, a sector of
9 the economy, productivity, competition,
10 employment, the environment, public
11 health or safety, or State, local, or Tribal
12 governments or communities;

13 “(ii) create a serious inconsistency, or
14 otherwise interfere, with an action taken or
15 planned by another Federal agency;

16 “(iii) materially alter the budgetary
17 impact of any entitlement, grant, user fees,
18 or loan programs, or the rights or obliga-
19 tions of recipients thereof; or

20 “(iv) raise novel legal or policy issues
21 arising out of legal mandates; and

22 “(B) does not include any guidance docu-
23 ment—

24 “(i) on regulations issued in accord-
25 ance with section 556 or 557;

1 “(ii) that pertains to a military or for-
2 eign affairs function of the United States,
3 other than procurement regulations and
4 regulations involving the import or export
5 of non-defense articles and services; or

6 “(iii) on regulations that are limited
7 to the organization, management, or per-
8 sonnel matters of a Federal agency.”.

9 **SEC. 3. DEFINITION OF “RULE” TO INCLUDE SIGNIFICANT**
10 **GUIDANCE DOCUMENT FOR PURPOSES OF**
11 **RULEMAKING.**

12 Section 551(4) of title 5, United States Code, is
13 amended by inserting before the semicolon the following:
14 “, as well as significant guidance document (as such term
15 is defined in section 804(5))”.

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