

Comment from Paul Noe on *Public Availability of Inoperative Agency Guidance Documents*
November 4, 2021

Cary et al: Here is the other point I was going to raise - about 2g, which included as a factor supporting posting a guidance on an agency's website whether it had been "submitted to the Office of Information and Regulatory Affairs".

I am sympathetic to being transparent about guidance (and other rules) that are reviewed by OIRA, but would suggest that is a matter OIRA has considered but not resolved formally for guidance, and it seems beyond the scope of this ACUS Rec as I understand it. Also not clear it is an independent factor from the others such as public reliance, etc. So I'd suggest it be dropped for now, but if ACUS ever works on the issue of transparency about rules reviewed by OIRA, I'd be interested in contributing if that would be helpful.