

PLAIN WRITING ACT OF 2010

MARCH 11, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TOWNS, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 946]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 946) to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Plain Writing Act of 2010”.

SEC. 2. PURPOSE.

The purpose of this Act is to improve the effectiveness and accountability of Federal agencies to the public by promoting clear Government communication that the public can understand and use.

SEC. 3. DEFINITIONS.

In this Act:

- (1) AGENCY.—The term “agency” means an Executive agency, as defined under section 105 of title 5, United States Code.
- (2) COVERED DOCUMENT.—The term “covered document”—
 - (A) means any document that—
 - (i) is relevant to obtaining any Federal Government benefit or service or filing taxes;
 - (ii) provides information about any Federal Government benefit or service; or
 - (iii) explains to the public how to comply with a requirement the Federal Government administers or enforces;
 - (B) includes (whether in paper or electronic form) a letter, publication, form, notice, or instruction; and
 - (C) does not include a regulation.
- (3) PLAIN WRITING.—The term “plain writing” means writing that the intended audience can readily understand and use because that writing is clear, concise, well-organized, and follows other best practices of plain writing.

SEC. 4. RESPONSIBILITIES OF FEDERAL AGENCIES.**(a) PREPARATION FOR IMPLEMENTATION OF PLAIN WRITING REQUIREMENTS.—**

- (1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the head of each agency shall—
 - (A) designate 1 or more senior officials within the agency to oversee the agency implementation of this Act;
 - (B) communicate the requirements of this Act to the employees of the agency;
 - (C) train employees of the agency in plain writing;
 - (D) establish a process for overseeing the ongoing compliance of the agency with the requirements of this Act;
 - (E) create and maintain a plain writing section of the agency’s website that is accessible from the homepage of the agency’s website; and
 - (F) designate 1 or more agency points-of-contact to receive and respond to public input on—
 - (i) agency implementation of this Act; and
 - (ii) the agency reports required under section 5.

(2) WEBSITE.—The plain writing section described under paragraph (1)(E) shall—

- (A) inform the public of agency compliance with the requirements of this Act; and
- (B) provide a mechanism for the agency to receive and respond to public input on—
 - (i) agency implementation of this Act; and
 - (ii) the agency reports required under section 5.

(b) REQUIREMENT TO USE PLAIN WRITING IN NEW DOCUMENTS.—Beginning not later than 1 year after the date of enactment of this Act, each agency shall use plain writing in every covered document of the agency that the agency issues or substantially revises.

(c) GUIDANCE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall develop and issue guidance on implementing the requirements of this section. The Director may designate a lead agency, and may use interagency working groups to assist in developing and issuing the guidance.

(2) INTERIM GUIDANCE.—Before the issuance of guidance under paragraph (1), agencies may follow the guidance of—

- (A) the writing guidelines developed by the Plain Language Action and Information Network; or
- (B) guidance provided by the head of the agency that is consistent with the guidelines referred to in subparagraph (A).

SEC. 5. REPORTS TO CONGRESS.

(a) **INITIAL REPORT.**—Not later than 9 months after the date of enactment of this Act, the head of each agency shall publish on the plain writing section of the agency’s website a report that describes the agency plan for compliance with the requirements of this Act.

(b) **ANNUAL COMPLIANCE REPORT.**—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the head of each agency shall publish on the plain writing section of the agency’s website a report on agency compliance with the requirements of this Act.

SEC. 6. JUDICIAL REVIEW AND ENFORCEABILITY.

(a) **JUDICIAL REVIEW.**—There shall be no judicial review of compliance or non-compliance with any provision of this Act.

(b) **ENFORCEABILITY.**—No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

PURPOSE AND SUMMARY

H.R. 946, the Plain Language Act of 2009, was introduced on February 10, 2009, by Rep. Bruce Braley. H.R. 946 improves the transparency and accountability of the federal government by requiring federal agencies to use plain language in many government documents and by requiring agencies to take actions such as training employees how to write in plain language.

BACKGROUND AND NEED FOR LEGISLATION

Government documents are often complex and can be difficult to understand if they are not written clearly. There have been sporadic efforts over the years to encourage agencies to use plain language in public documents. President Carter issued Executive Order 12174 in 1979 that encouraged agencies to draft forms “to elicit information in a simple, straightforward fashion.” In 1998, President Clinton issued a memorandum that, in part, required federal agencies to use plain language in all documents that explain how to obtain a benefit or service or how to comply with a requirement administered or enforced by the agency. This memorandum stated that “[b]y using plain language, we send a clear message about what the Government is doing, what it requires, and what services it offers. Plain language saves the Government and the private sector time, effort, and money.”

A few agencies still maintain plain language programs but efforts to promote plain language have waned. H.R. 946 requires many government documents to be in plain language. The bill ensures that many of the letters, forms, and other documents that people receive from the government will be written in a clear, understandable way. Under this bill, for example, the Social Security Administration will be required to use plain language in letters that provide beneficiaries information about Social Security. The IRS will be required to write tax forms in plain language. Making these documents easier to understand will make it easier for Americans to comply with requirements imposed by the government and to take advantage of benefits provided by the government.

LEGISLATIVE HISTORY

A similar bill, H.R. 3548, was introduced on September 17, 2007, and referred to the Committee on Oversight and Government Reform. The Subcommittee on Information Policy, Census, and National Archives considered H.R. 3548 on January 29, 2008, and ap-

proved the bill by voice vote. The Committee considered H.R. 3548 on March 13, 2008, and ordered H.R. 3548 reported favorably, as amended, by voice vote. H.R. 3548 passed the House on April 14, 2008, by a vote of 376–1.

H.R. 946 was introduced on February 10, 2009, and referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 946 on March 4, 2010, and ordered the bill reported favorably, as amended, by voice vote.

SECTION-BY-SECTION

Section 1. Short title

This section provides that the short title of H.R. 946 is the “Plain Writing Act of 2010.”

Section 2. Purpose

This section identifies the purpose of the Act which is to improve the effectiveness and accountability of federal agencies to the public by promoting clear government communication that the public can understand and use.

Section 3. Definitions

This section includes the following definitions:

The term “agency” means an Executive department, a government corporation, and an independent establishment.

The term “covered document” means a letter, publication, form, notice or instruction that:

- (1) is relevant to obtaining any federal government benefit or service or filing taxes;
- (2) provides information about any federal government benefit or service; or
- (3) explains to the public how to comply with a requirement the federal government administers or enforces.

The term covered document includes documents in both electronic and paper form. It does not include regulations. The bill as introduced defined covered document as any document issued by an agency to the public except regulations. The Towns amendment, adopted during Committee consideration, narrowed the scope of documents covered by the bill to ensure that agencies focus on documents Americans are most likely to encounter. The new definition includes documents that explain to the public how to comply with a federal requirement. The Committee intends this to include agency guidance documents. However, the Committee recognizes that some guidance documents must include technical or legal terminology in order to accurately describe a statutory or regulatory requirement. As described below, plain writing should be used in a way that meets the needs of the intended audience.

The term “plain writing” means writing that the intended audience can readily understand and use because it is clear, concise, well-organized, and follows other best practices of plain writing. The bill as introduced used the term “plain language.” The Towns amendment replaced the term plain language with plain writing throughout the bill. The term is intended to have the same meaning as the term plain language.

Section 4. Responsibilities of federal agencies

Subsection (a) requires each agency, within nine months of enactment, to perform a number of actions. Agencies must designate one or more senior officials to oversee implementation, communicate the requirements of the Act to employees, train employees, establish a process for overseeing compliance, maintain a plain writing section of the agency's website, and designate one or more points-of-contact to receive and respond to public input. Each agency must include in the plain writing section of its website information about the agency's implementation of the Act and a way for the agency to receive and respond to public input on agency implementation and reports the agency issues on plain writing.

The bill as introduced required agencies to report on some of the actions described. The Towns amendment added an affirmative requirement that agencies perform these actions rather than just reporting on what the agency has done. The Towns amendment also added the requirement that each agency make information about its plain writing efforts available on its website.

Subsection (b) requires each agency, within one year of enactment, to use plain writing in every covered document of the agency that the agency issues or substantially revises. The Committee intends for agencies to implement the Act in a manner that takes into account the unique requirements and needs of the agency in carrying out its mission.

Subsection (c) requires the director of the Office of Management and Budget (OMB) to develop and issue guidance within six months of enactment on implementing this section. The bill as introduced required OMB to issue this guidance as a circular. The Towns amendment did not include this requirement in order to ensure OMB has the flexibility to issue guidance in the most effective and appropriate form.

The Towns amendment gave OMB the authority under subsection (c) to designate a lead agency to coordinate this effort and to use interagency working groups to assist in developing the guidance. The Committee believes OMB should utilize interagency groups to provide input on developing guidance and to provide feedback on draft guidance. OMB should reach out in particular to the agencies that would likely issue larger numbers of covered documents. This subsection also provides that prior to OMB's guidance, agencies may follow the guidelines of the Plain Language Action and Information Network (PLAIN) or guidance provided by the agency head if it is consistent with the PLAIN guidelines.

Section 5. Reports to Congress

Subsection (a) requires the head of each agency, within nine months of enactment, to publish on the plain writing section of the agency's website a report that describes the agency plan for compliance with the requirements of this Act.

Subsection (b) requires the head of each agency to publish on the plain writing section of the agency's website a report on agency compliance with the Act within 18 months of enactment and once each following year.

The Towns amendment changed the reporting requirements in this section to require agency reports to be published online rather than just being sent to Congress.

Section 6. Judicial review and enforceability

Subsection (a) clarifies that the Act does not provide for judicial review of compliance or noncompliance with any provision in the Act.

Subsection (b) provides that no provision of the Act shall be construed to create any right or benefit.

This section was added to the bill during Committee consideration by the Towns amendment.

EXPLANATION OF AMENDMENTS

The following amendments were adopted in Committee:

Chairman Towns offered an amendment in the nature of a substitute that passed by voice vote. The Towns amendment makes a number of changes to the bill. The amendment focuses the scope of the bill on the documents most in need of attention. As introduced, H.R. 946 covered any document issued by an agency to the public except regulations. The Towns amendment covers those documents described under the term “covered documents” in section 3 in the section-by-section. Examples of the kinds of documents the amendment is intended to cover include IRS tax forms and instructions and forms for Social Security and Medicare benefits. The Towns amendment requires that OMB issue guidelines to agencies within six months and requires that each agency make information about the agency’s compliance with the Act available on the agency’s website. The amendment also clarifies that the Act is not judicially reviewable.

COMMITTEE CONSIDERATION

On Thursday, March 4, 2010, the Committee met in open session and ordered H.R. 946 reported favorably to the House by a voice vote.

ROLL CALL VOTES

No roll call votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. H.R. 946 requires executive branch agencies to use plain writing in certain government documents. This bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report, including the need for federal agencies to write government documents in a manner that is clear and readily understood.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including improving the accountability and accessibility of the federal government by requiring agencies to use plain writing in certain government documents.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 946. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 946 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 946. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 946 from the Director of the Congressional Budget Office:

MARCH 9, 2010.

Hon. EDOLPHUS TOWNS,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 946, the Plain Language Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 946—Plain Language Act of 2009

H.R. 946 would amend federal law to require all federal agencies within one year to use plain language (defined as language that is clear and readily identifiable to the intended reader) in all documents, including letters, publications, and forms. The legislation also would require the Office of Management and Budget (OMB) to provide governmentwide guidance on this matter. Finally, H.R. 946 would require each agency to designate a coordinator for its efforts to use plain language, establish an agency Internet site related to those efforts, review its compliance with the legislation, train employees to use plain language, and prepare reports to the Congress on compliance with the legislation.

CBO estimates that implementing H.R. 946 would cost about \$5 million a year for agencies to implement the additional employee training and reporting requirements, subject to availability of appropriated funds. The bill could also affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and the Bonneville Power Administration; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant. Enacting the legislation would not affect revenues.

Most provisions of the bill would codify and expand current practices of the federal government. Executive Order 12866 and the Presidential Memorandum on Plain Language (June 1, 1998) currently require government agencies to write in language that is comprehensible to readers. Based on information from OMB, CBO estimates that implementing this bill would not significantly increase the cost of preparing various paper or electronic documents used throughout the government.

H.R. 946 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On April 3, 2009, CBO transmitted a cost estimate for S. 574, the Plain Writing Act of 2009, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on April 1, 2009. Both pieces of legislation are similar in that they require federal agencies to use plain language in all documents, but H.R. 946 creates additional requirements on government agencies. CBO's cost estimates reflect those differences.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes to existing law in this bill.

