

117TH CONGRESS  
1ST SESSION

# S. 533

To require a guidance clarity statement on certain agency guidance, and  
for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, MARCH 1), 2021

Mr. LANKFORD (for himself, Mr. RISCH, and Mr. JOHNSON) introduced the  
following bill; which was read twice and referred to the Committee on  
Homeland Security and Governmental Affairs

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## A BILL

To require a guidance clarity statement on certain agency  
guidance, and for other purposes.

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 “Guidance Clarity Act  
5 of 2021”.

6 **SEC. 2. GUIDANCE CLARITY STATEMENT REQUIRED.**

7 (a) DEFINITIONS.—In this section:

8 (1) AGENCY; RULE.—The terms “agency” and  
9 “rule” have the meanings given those terms in sec-  
10 tion 551 of title 5, United States Code.

1 (2) GUIDANCE.—The term “guidance”—

2 (A) means an agency statement of general  
3 applicability, intended to have a future effect on  
4 the behavior of regulated parties, that sets forth  
5 a policy on a statutory, regulatory, or technical  
6 issue, or an interpretation of a statute or regu-  
7 lation; and

8 (B) does not include—

9 (i) a rule promulgated pursuant to no-  
10 tice and comment under section 553 of  
11 title 5, United States Code;

12 (ii) a rule exempt from rulemaking re-  
13 quirements under section 553(a) of title 5,  
14 United States Code;

15 (iii) a rule of agency organization,  
16 procedure, or practice;

17 (iv) a decision of an agency adjudica-  
18 tion under section 554 of title 5, United  
19 States Code, or any similar statutory pro-  
20 vision;

21 (v) internal guidance directed to the  
22 issuing agency or other agency that is not  
23 intended to have a substantial future effect  
24 on the behavior of regulated parties; or

1 (vi) internal executive branch legal ad-  
2 vice or legal opinions addressed to execu-  
3 tive branch officials.

4 (b) REQUIREMENT.—Each agency shall include a  
5 guidance clarity statement as described in subsection (c)  
6 on any guidance issued by that agency on and after the  
7 date of enactment of this Act.

8 (c) GUIDANCE CLARITY STATEMENT.—A guidance  
9 clarity statement required under subsection (b) shall—

10 (1) be displayed prominently on the first page  
11 of the document; and

12 (2) include the following: “The contents of this  
13 document do not have the force and effect of law  
14 and are not meant to bind the public in any way.  
15 This document is intended only to provide clarity to  
16 the public regarding existing requirements under the  
17 law or agency policies.”.

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