

## Calendar No. 346

117TH CONGRESS  
2D SESSION**S. 533****[Report No. 117-95]**

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

APRIL 27, 2022

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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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”.

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

2 (a) DEFINITIONS.—In this section:

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

6 (2) GUIDANCE.—The term “guidance”—

7 (A) means an agency statement of general  
8 applicability, intended to have a future effect on  
9 the behavior of regulated parties, that sets forth  
10 a policy on a statutory, regulatory, or technical  
11 issue, or an interpretation of a statute or regu-  
12 lation; and

13 (B) does not include—

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

17 (ii) a rule exempt from rulemaking re-  
18 quirements under section 553(a) of title 5,  
19 United States Code;

20 (iii) a rule of agency organization,  
21 procedure, or practice;

22 (iv) a decision of an agency adjudica-  
23 tion under section 554 of title 5, United  
24 States Code, or any similar statutory pro-  
25 vision;

1                   (v) internal guidance directed to the  
 2                   issuing agency or other agency that is not  
 3                   intended to have a substantial future effect  
 4                   on the behavior of regulated parties; or

5                   (vi) internal executive branch legal ad-  
 6                   vice or legal opinions addressed to execu-  
 7                   tive branch officials.

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

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

14                   (1) be displayed prominently on the first page  
 15                   of the document; and

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

22 **SECTION 1. SHORT TITLE.**

23           *This Act may be cited as the “Guidance Clarity Act*  
 24 *of 2021”.*

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

2       (a) *REQUIREMENT.*—Each agency, as defined in sec-  
3 tion 551 of title 5, United States Code, shall include a guid-  
4 ance clarity statement as described in subsection (b) on any  
5 guidance issued by that agency under section 553(b)(3)(A)  
6 of title 5, United States Code, on and after the date that  
7 is 30 days after the date on which the Director of the Office  
8 of Management and Budget issues the guidance required  
9 under subsection (c).

10       (b) *GUIDANCE CLARITY STATEMENT.*—A guidance  
11 clarity statement required under subsection (a) shall—

12               (1) be displayed prominently on the first page of  
13 the document; and

14               (2) include the following: “The contents of this  
15 document do not have the force and effect of law and  
16 do not, of themselves, bind the public or the agency.  
17 This document is intended only to provide clarity to  
18 the public regarding existing requirements under the  
19 law or agency policies.”.

20       (c) *OMB GUIDANCE.*—Not later than 90 days after the  
21 date of enactment of this Act, the Director of the Office of  
22 Management and Budget shall issue guidance to implement  
23 this Act.



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