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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. LUETKEMEYER introduced the following bill; which was referred to the
Committee on _____

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:

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

4 (2) GUIDANCE.—The term “guidance”—

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

11 (B) does not include—

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

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

18 (iii) a rule of agency organization,
19 procedure, or practice;

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

24 (v) internal guidance directed to the
25 issuing agency or other agency that is not

1 intended to have a substantial future effect
2 on the behavior of regulated parties; or

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

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

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

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

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