

116TH CONGRESS
1ST SESSION

H. R. 5270

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 26, 2019

Mr. LUETKEMEYER (for himself, Mr. JORDAN, Mr. HUIZENGA, Mr. BUDD, Mr. TIMMONS, Mr. RIGGLEMAN, Mrs. HARTZLER, Mr. GONZALEZ of Ohio, Mr. LONG, Mr. HILL of Arkansas, and Mr. ZELDIN) introduced the following bill; which was referred to the Committee on Oversight and Reform

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 2019”.

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

7 (a) IN GENERAL.—The head of each agency shall in-
8 clude a guidance clarity statement as described in sub-

1 section (b) on any guidance issued by that agency on and
2 after the date of the enactment of this Act.

3 (b) GUIDANCE CLARITY STATEMENT.—A guidance
4 clarity statement required under subsection (a) shall be
5 displayed prominently on the first page of the document
6 and shall include the following: “This guidance does not
7 have the force and effect of law and therefore does not
8 establish any rights or obligations for any person and is
9 not binding on the agency or the public. If this guidance
10 suggests how regulated entities may comply with applica-
11 ble statutes or regulations, noncompliance with this guid-
12 ance does not conclusively establish a violation of applica-
13 ble law.”.

14 (c) DEFINITIONS.—In this section:

15 (1) AGENCY.—The term “agency” has the
16 meaning given that term in section 551 of title 5,
17 United States Code.

18 (2) GUIDANCE.—The term “guidance” means
19 an agency statement of general applicability, in-
20 tended to have a future effect on the behavior of
21 regulated parties, that sets forth a policy on a statu-
22 tory, regulatory, or technical issue, or an interpreta-
23 tion of a statute or regulation, but does not in-
24 clude—

1 (A) a rule promulgated pursuant to notice
2 and comment under section 553 of title 5,
3 United States Code;

4 (B) a rule exempt from rulemaking re-
5 quirements under section 553(a) of title 5,
6 United States Code;

7 (C) a rule of agency organization, proce-
8 dure, or practice;

9 (D) a decision of an agency adjudication
10 under section 554 of title 5, United States
11 Code, or any similar statutory provision;

12 (E) internal guidance directed to the
13 issuing agency or other agency that is not in-
14 tended to have a substantial future effect on
15 the behavior of regulated parties; or

16 (F) internal executive branch legal advice
17 or legal opinions addressed to executive branch
18 officials.

19 (3) RULE.—The term “rule” has the meaning
20 given that term in section 551 of title 5, United
21 States Code.

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