

§ 2509.12

party and designed to guide the conduct of the broader regulated public;

(6) Legal briefs, other court filings, or positions taken in litigation or enforcement actions;

(7) Agency statements that do not set forth for the first time a new regulatory policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation, including speeches and individual presentations, editorials, media interviews, press materials, or congressional testimony;

(8) Grant solicitations and awards;

(9) Contract solicitations and awards; or

(10) Purely internal agency policies or guidance directed solely to CNCS employees or contractors or to other Federal agencies that are not intended to have substantial future effect on the behavior of regulated parties.

§ 2509.12 What should I do if a guidance document is covered by this subpart?

(a) All CNCS guidance documents require review and clearance in accordance with this subpart.

(b) Guidance proposed by CNCS must be reviewed by the Office of General Counsel (OGC) and cleared by the General Counsel or his/her designee.

(c) Additional reviews by other CNCS officials are also conducted as described in CNCS Policy 100—Preparing Policies and Procedures and Policy 103—Clearing Controlled Correspondence and Other Documents with the Board, Chief Executive Officer, and Chief of Staff, or subsequent updates or revisions to those policies.

§ 2509.14 What is the purpose of the review and clearance procedure?

CNCS's guidance issuance process shall ensure that each proposed guidance document satisfies the following requirements:

(a) The guidance document complies with all relevant statutes and regulations (including any statutory deadlines for Agency action);

(b) The guidance document identifies or includes:

(1) The term “guidance” or its functional equivalent;

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(2) The issuing CNCS responsible office name;

(3) A unique identifier, including, at a minimum, the date of issuance and title of the document and its regulatory identification number (RIN), if applicable;

(4) The activity or entities to which the guidance applies;

(5) Citations to applicable statutes and regulations;

(6) A statement noting whether the guidance is intended to revise or replace any previously issued guidance and, if so, sufficient information to identify the previously issued guidance; and

(7) A short summary of the subject matter covered in the guidance document at the top of the document;

(c) The guidance document avoids using mandatory language, such as “shall,” “must,” “required,” or “requirement,” unless the language is describing an established statutory or regulatory requirement or is addressed to CNCS employees and will not foreclose CNCS's consideration of positions advanced by affected private parties;

(d) The guidance document is written in plain and understandable English; and

(e) All guidance documents should include the following disclaimer prominently in each guidance document: “The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.” When CNCS's guidance document is binding because binding guidance is authorized by law or because the guidance is incorporated into a contract, CNCS will modify the disclaimer above to reflect either of those facts.

§ 2509.16 How will CNCS make guidance documents available to the public?

CNCS shall:

(a) Ensure all effective guidance documents, identified by a unique identifier which includes, at a minimum, the document's title and date of issuance or revision and its RIN, if applicable,