

are on its website in a single, searchable, indexed database, and available to the public in accordance with § 2905.16;

(b) Note on its website that guidance documents lack the force and effect of law, except as authorized by law or as incorporated into a contract; and

(c) Publish on its website where the public can comment electronically on any guidance documents that are subject to the notice-and-comment procedures described in § 2509.22 and to submit requests electronically for issuance, reconsideration, modification, or rescission of guidance documents.

(d) Guidance documents that do not appear on the Agency's single, searchable, indexed database are rescinded.

§ 2509.18 What procedures apply to guidance documents identified as “significant”?

(a) OGC review of proposed guidance documents will include a preliminary determination as to whether the proposed guidance document is significant within the meaning of § 2509.20. Unless exempt, each proposed guidance document determined to be significant must be approved by the Chief Executive Officer before issuance. In such instances, CNCS will:

(1) Obtain a RIN to report what CNCS is planning to issue;

(2) Coordinate the guidance document with the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) for the interagency review, final significance determination, and clearance; and

(3) Coordinate internal review and clearance of the guidance document before submitting it to the Chief Executive Officer for approval, consistent with CNCS Policy 103.

(b) If the guidance document is determined to be significant under § 2509.20, CNCS may proceed with publication in the FEDERAL REGISTER. For each significant guidance document, the originating CNCS office should include a statement in the clearance memorandum indicating that the guidance document has been reviewed and cleared in accordance with this section.

§ 2509.20 What is a “significant” guidance document?

(a) The term “significant guidance document” means a guidance document that will be disseminated to regulated entities or the general public and that may reasonably be anticipated:

(1) To lead to an annual effect on the economy of \$100 million or more or adversely affect in a material way the U.S. economy, a sector of the U.S. economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) To create serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency;

(3) To alter materially the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) To raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866, as further amended.

(b) The term “significant guidance document” does not include the categories of documents excluded by § 2509.12 or any other category of guidance documents exempted in writing by CNCS in consultation with OIRA.

(c) Significant and economically significant guidance documents must be reviewed by OIRA under E.O. 12866 before issuance and must demonstrate compliance with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in E.O. 12866, E.O. 13563, E.O. 13609, E.O. 13771, and E.O. 13777.

§ 2509.22 When will guidance be published for public notice-and-comment?

(a) Except as provided in paragraph (b) of this section, all proposed CNCS guidance documents determined to be significant within the meaning of § 2509.20 are subject to public notice-and-comment. CNCS shall publish notification in the FEDERAL REGISTER of the proposed significant guidance document and invite public comments for a minimum of 30 days, then publish a response to major concerns raised in the