

Comment from Senior Fellow Peter Strauss -- December 1, 2017

I hope that the following changes to the recommendations on guidance might be considered and adopted.

1. An agency should not use a policy statement *describing means of regulatory compliance deemed acceptable* to create ...

3. ... as an internal agency management matter, *and particularly when guidance is used in connection with regulatory enforcement*, to direct ...

7a. ...other situations, the agency *should* disseminate its decision

7c. ... not the direct superior of those frontline officials. *Similarly, relief should be available in cases in which frontline officials fail to follow guidance in conformity with which they are properly directed to act.*

8b. ... to have consistency, ~~for consistency's sake~~, independent of ...

12. *All guidance affecting the interests of the regulated and/or beneficiary public should be promptly placed in the agency's electronic reading room, where it may readily be found, with indications of the nature of reliance that may be placed on it, and the opportunities for reconsideration/modification of it or the taking of different approaches.*