

ardous Substance Superfund, and Leaking Underground Storage Tank Trust Fund Program Accounts, are available for the construction, alteration, repair, rehabilitation, and renovation of facilities provided that the cost does not exceed \$85,000 per project.

(Pub. L. 111–8, div. E, title II, Mar. 11, 2009, 123 Stat. 729.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§ 4370i. Regional liaisons for minority, tribal, and low-income communities

(a) In general

The Administrator of the Environmental Protection Agency (referred to in this section as the “Administrator”) shall assign at least one employee in each regional office of the Environmental Protection Agency to serve as a liaison to minority, Tribal, and low-income communities in the relevant region.

(b) Public identification

The Administrator shall identify each regional liaison assigned under subsection (a) on the internet website of—

- (1) the relevant regional office of the Environmental Protection Agency; and
- (2) the Office of Environmental Justice of the Environmental Protection Agency.

(Pub. L. 115–270, title IV, § 4305, Oct. 23, 2018, 132 Stat. 3883.)

Editorial Notes

CODIFICATION

Section was enacted as part of the America’s Water Infrastructure Act of 2018, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

§ 4370j. Municipal Ombudsman

(a) Establishment

There is established within the Office of the Administrator an Office of the Municipal Ombudsman, to be headed by a Municipal Ombudsman.

(b) General duties

The duties of the Municipal Ombudsman shall include the provision of—

- (1) technical assistance to municipalities seeking to comply with the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]; and
- (2) information to the Administrator to help the Administrator ensure that agency policies are implemented by all offices of the Environmental Protection Agency, including regional offices.

(c) Actions required

The Municipal Ombudsman shall work with appropriate offices at the headquarters and re-

gional offices of the Environmental Protection Agency to ensure that a municipality seeking assistance is provided information regarding—

- (1) available Federal financial assistance for which the municipality is eligible;
- (2) flexibility available under the Federal Water Pollution Control Act; and
- (3) the opportunity to develop an integrated plan under section 402(s) of the Federal Water Pollution Control Act [33 U.S.C. 1342(s)].

(d) Information sharing

The Municipal Ombudsman shall publish on the website of the Environmental Protection Agency—

- (1) general information relating to—
 - (A) the technical assistance referred to in subsection (b)(1);
 - (B) the financial assistance referred to in subsection (c)(1);
 - (C) the flexibility referred to in subsection (c)(2); and
 - (D) any resources developed by the Administrator related to integrated plans under section 402(s) of the Federal Water Pollution Control Act [33 U.S.C. 1342(s)]; and
- (2) a copy of each permit, order, or judicial consent decree that implements or incorporates such an integrated plan.

(Pub. L. 115–436, § 4, Jan. 14, 2019, 132 Stat. 5560.)

Editorial Notes

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (b)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

CODIFICATION

Section was enacted as part of the Water Infrastructure Improvement Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

Pub. L. 115–436, § 2, Jan. 14, 2019, 132 Stat. 5558, provided that: “In this Act [see Short Title of 2019 Amendment note set out under section 1251 of Title 33, Navigation and Navigable Waters]:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) MUNICIPALITY.—The term ‘municipality’ has the meaning given that term in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362).”

SUBCHAPTER IV—FEDERAL PERMITTING IMPROVEMENT

§ 4370m. Definitions

In this subchapter:

(1) Agency

The term “agency” has the meaning given the term in section 551 of title 5.

(2) Agency CERPO

The term “agency CERPO” means the chief environmental review and permitting officer

of an agency, as designated by the head of the agency under section 4370m-1(b)(2)(A)(iii)(I) of this title.

(3) Authorization

The term “authorization” means any license, permit, approval, finding, determination, or other administrative decision issued by an agency and any interagency consultation that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a covered project administered by a Federal agency or, in the case of a State that chooses to participate in the environmental review and authorization process in accordance with section 4370m-2(c)(3)(A) of this title, a State agency.

(4) Cooperating agency

The term “cooperating agency” has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

(5) Council

The term “Council” means the Federal Permitting Improvement Steering Council established under section 4370m-1(a) of this title.

(6) Covered project

(A) In general

The term “covered project” means any activity in the United States that requires authorization or environmental review by a Federal agency involving construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity, carbon capture, or any other sector as determined by a majority vote of the Council that—

- (i)(I) is subject to NEPA;
- (II) is likely to require a total investment of more than \$200,000,000; and
- (III) does not qualify for abbreviated authorization or environmental review processes under any applicable law;
- (ii) is covered by a programmatic plan or environmental review developed for the primary purpose of facilitating development of carbon dioxide pipelines;
- (iii) is—
 - (I) subject to NEPA;
 - (II) sponsored by an Indian Tribe (as defined in section 5304 of title 25), an Alaska Native Corporation, a Native Hawaiian organization (as defined in section 7517 of title 20), the Department of Hawaiian Home Lands, or the Office of Hawaiian Affairs; and
 - (III) located on land owned or under the jurisdiction of the entity that sponsors the activity under subclause (II); or
 - (iv) is subject to NEPA and the size and complexity of which, in the opinion of the

Council, make the project likely to benefit from enhanced oversight and coordination, including a project likely to require—

- (I) authorization from or environmental review involving more than 2 Federal agencies; or
- (II) the preparation of an environmental impact statement under NEPA.

(B) Exclusion

The term “covered project” does not include—

- (i) any project subject to section 139 of title 23; or
- (ii) any project subject to section 2348 of title 33.

(C) Inclusion

For purposes of subparagraph (A), construction of infrastructure for carbon capture includes construction of—

- (i) any facility, technology, or system that captures, utilizes, or sequesters carbon dioxide emissions, including projects for direct air capture (as defined in paragraph (6)(B)(i) of section 7403(g) of this title); and
- (ii) carbon dioxide pipelines.

(7) Dashboard

The term “Dashboard” means the Permitting Dashboard required under section 4370m-2(b) of this title.

(8) Environmental assessment

The term “environmental assessment” has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

(9) Environmental document

(A) In general

The term “environmental document” means an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision.

(B) Inclusions

The term “environmental document” includes—

- (i) any document that is a supplement to a document described in subparagraph (A); and
- (ii) a document prepared pursuant to a court order.

(10) Environmental impact statement

The term “environmental impact statement” means the detailed written statement required under section 102(2)(C) of NEPA [42 U.S.C. 4332(2)(C)].

(11) Environmental review

The term “environmental review” means the agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment, an environmental impact statement, or other document required under NEPA.

(12) Executive Director

The term “Executive Director” means the Executive Director appointed by the President under section 4370m-1(b)(1)(A) of this title.

(13) Facilitating agency

The term “facilitating agency” means the agency that receives the initial notification from the project sponsor required under section 4370m-2(a) of this title.

(14) Inventory

The term “inventory” means the inventory of covered projects established by the Executive Director under section 4370m-1(c)(1)(A) of this title.

(15) Lead agency

The term “lead agency” means the agency with principal responsibility for an environmental review of a covered project under NEPA and parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

(16) NEPA

The term “NEPA” means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(17) Participating agency

The term “participating agency” means an agency participating in an environmental review or authorization for a covered project in accordance with section 4370m-2 of this title.

(18) Project sponsor

The term “project sponsor” means an entity, including any private, public, or public-private entity, seeking an authorization for a covered project.

(Pub. L. 114-94, div. D, title XLI, § 41001, Dec. 4, 2015, 129 Stat. 1741; Pub. L. 116-260, div. S, § 102(d)(1), Dec. 27, 2020, 134 Stat. 2250; Pub. L. 117-58, div. G, title VIII, § 70801(a), Nov. 15, 2021, 135 Stat. 1287; Pub. L. 117-173, § 1, Aug. 16, 2022, 136 Stat. 2103.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969 or NEPA, referred to in pars. (6)(A), (11), and (15) and defined in (16), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fixing America’s Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

AMENDMENTS

2022—Par. (6)(A). Pub. L. 117-173 inserted “semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity,” after “manufacturing,” in introductory provisions.

2021—Par. (3). Pub. L. 117-58, § 70801(a)(1), inserted “and any interagency consultation” after “issued by an agency”.

Par. (4). Pub. L. 117-58, § 70801(a)(2), substituted “has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).” for “means any agency with—” and struck out subpars. (A) and (B) which read as follows:

“(A) jurisdiction under Federal law; or

“(B) special expertise as described in section 1501.6 of title 40, Code of Federal Regulations (as in effect on December 4, 2015).”

Par. (5). Pub. L. 117-58, § 70801(a)(3), substituted “Federal Permitting Improvement Steering Council” for “Federal Infrastructure Permitting Improvement Steering Council”.

Par. (6)(A)(iii), (iv). Pub. L. 117-58, § 70801(a)(4), added cl. (iii) and redesignated former cl. (iii) as (iv).

Par. (8). Pub. L. 117-58, § 70801(a)(5), substituted “has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).” for “means a concise public document for which a Federal agency is responsible under section 1508.9 of title 40, Code of Federal Regulations (or successor regulations).”

2020—Par. (6)(A). Pub. L. 116-260, § 102(d)(1)(A)(i), inserted “carbon capture,” after “manufacturing,” in introductory provisions.

Par. (6)(A)(ii), (iii). Pub. L. 116-260, § 102(d)(1)(A)(ii)–(iv), added cl. (ii) and redesignated former cl. (ii) as (iii).

Par. (6)(C). Pub. L. 116-260, § 102(d)(1)(B), added subpar. (C).

Statutory Notes and Related Subsidiaries

SAVINGS CLAUSE

Pub. L. 114-94, div. A, title XI, § 11503(b), Dec. 4, 2015, 129 Stat. 1692, provided that: “Except as expressly provided in section 41003(f) [42 U.S.C. 4370m-2(f)] and subsection (o) of section 139 of title 23, United States Code, the requirements and other provisions of title 41 of this Act [probably means title XLI of div. D of Pub. L. 114-94, 42 U.S.C. 4370m et seq.] shall not apply to—

“(1) programs administered now and in the future by the Department of Transportation or its operating administrations under title 23, 46, or 49, United States Code, including direct loan and loan guarantee programs, or other Federal statutes or programs or projects administered by an agency pursuant to their authority under title 49, United States Code; or

“(2) any project subject to section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348).”

DEVELOPMENT OF CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION REPORT, PERMITTING GUIDANCE, AND REGIONAL PERMITTING TASK FORCE

Pub. L. 116-260, div. S, § 102(d)(2), Dec. 27, 2020, 134 Stat. 2250, provided that:

“(A) DEFINITIONS.—In this paragraph:

“(i) CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION PROJECTS.—The term ‘carbon capture, utilization, and sequestration projects’ includes projects for direct air capture (as defined in paragraph (6)(B)(i) of section 103(g) of the Clean Air Act (42 U.S.C. 7403(g))).

“(ii) EFFICIENT, ORDERLY, AND RESPONSIBLE.—The term ‘efficient, orderly, and responsible’ means, with respect to development or the permitting process for carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, a process that promotes environmental, health, and safety protections while maintaining a process that is completed in an expeditious manner.

“(B) REPORT.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Chair of the Council on Environmental Quality (referred to in this section as the ‘Chair’), in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, the Secretary of Transportation, the Executive Director of the Federal Permitting Improvement Council, and the head of any other relevant Federal agency (as determined by the President), shall prepare a report that—

“(I) compiles all existing relevant Federal permitting and review information and resources for

project applicants, agencies, and other stakeholders interested in the deployment and impact of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, including—

“(aa) the appropriate points of interaction with Federal agencies;

“(bb) clarification of the permitting responsibilities and authorities among Federal agencies; and

“(cc) best practices and templates for permitting in an efficient, orderly, and responsible manner, including through improved staff capacity and training at Federal permitting agencies;

“(II) inventories current or emerging activities that transform captured carbon dioxide into a product of commercial value, or as an input to products of commercial value;

“(III) inventories existing initiatives and recent publications that analyze or identify priority carbon dioxide pipelines needed to enable efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects at increased scale;

“(IV) identifies gaps in the current Federal regulatory framework for the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines;

“(V) identifies Federal financing mechanisms available to project developers; and

“(VI) identifies public engagement opportunities through existing laws, including under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(i) SUBMISSION; PUBLICATION.—The Chair shall—

“(I) submit the report under clause (i) to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives; and

“(II) as soon as practicable, make the report publicly available.

“(C) GUIDANCE.—

“(i) IN GENERAL.—After submission of the report under subparagraph (B)(ii), but not later than 1 year after the date of enactment of this Act [Dec. 27, 2020], the Chair shall submit guidance consistent with that report to all relevant Federal agencies that—

“(I) facilitates reviews associated with the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines; and

“(II) supports the efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

“(ii) REQUIREMENTS.—

“(I) IN GENERAL.—The guidance under clause (i) shall address applicable requirements under—

“(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(bb) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(cc) the Clean Air Act (42 U.S.C. 7401 et seq.);

“(dd) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

“(ee) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

“(ff) division A of subtitle III of title 54, United States Code (formerly known as the ‘National Historic Preservation Act’);

“(gg) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

“(hh) the Act of June 8, 1940 (16 U.S.C. 668 et seq.) (commonly known as the ‘Bald and Golden Eagle Protection Act’);

“(ii) chapter 601 of title 49, United States Code (including those provisions formerly cited as the Natural Gas Pipeline Safety Act of 1968 (Public Law 90–481; 82 Stat. 720) and the Hazardous Liquid

Pipeline Safety Act of 1979 (Public Law 96–129; 93 Stat. 1003)); and

“(jj) any other Federal law that the Chair determines to be appropriate.

“(II) ENVIRONMENTAL REVIEWS.—The guidance under clause (i) shall include direction to States and other interested parties for the development of programmatic environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

“(III) PUBLIC INVOLVEMENT.—The guidance under clause (i) shall be subject to the public notice, comment, and solicitation of information procedures under section 1506.6 of title 40, Code of Federal Regulations (or a successor regulation).

“(iii) SUBMISSION; PUBLICATION.—The Chair shall—

“(I) submit the guidance under clause (i) to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives; and

“(II) as soon as practicable, make the guidance publicly available.

“(iv) EVALUATION.—The Chair shall—

“(I) periodically evaluate the reports of the task forces under subparagraph (D)(v) and, as necessary, revise the guidance under clause (i); and

“(II) each year, submit to the Committee on Environment and Public Works of the Senate, the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives, and relevant Federal agencies a report that describes any recommendations for rules, revisions to rules, or other policies that would address the issues identified by the task forces under subparagraph (D)(v).

“(D) TASK FORCES.—

“(i) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act [Dec. 27, 2020], the Chair shall establish not less than 2 task forces, which shall each cover a different geographical area with differing demographic, land use, or geological issues—

“(I) to identify permitting and other challenges and successes that permitting authorities and project developers and operators face in permitting projects in an efficient, orderly, and responsible manner; and

“(II) to improve the performance of the permitting process and regional coordination for the purpose of promoting the efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

“(ii) MEMBERS AND SELECTION.—

“(I) IN GENERAL.—The Chair shall—

“(aa) develop criteria for the selection of members to each task force; and

“(bb) select members for each task force in accordance with item (aa) and subclause (II).

“(II) MEMBERS.—Each task force—

“(aa) shall include not less than 1 representative of each of—

“(AA) the Environmental Protection Agency;

“(BB) the Department of Energy;

“(CC) the Department of the Interior;

“(DD) the Pipeline and Hazardous Materials Safety Administration;

“(EE) any other Federal agency the Chair determines to be appropriate;

“(FF) any State that requests participation in the geographical area covered by the task force;

“(GG) developers or operators of carbon capture, utilization, and sequestration projects or carbon dioxide pipelines; and

“(HH) nongovernmental membership organizations, the primary mission of which concerns protection of the environment;

“(bb) at the request of a Tribal or local government, may include a representative of—

“(AA) not less than 1 local government in the geographical area covered by the task force; and

“(BB) not less than 1 Tribal government in the geographical area covered by the task force; and

“(cc) shall include 1 expert in each of the following fields—

“(AA) health and environmental effects, including exposure evaluation; and

“(BB) pipeline safety.

“(iii) MEETINGS.—

“(I) IN GENERAL.—Each task force shall meet not less than twice each year.

“(II) JOINT MEETING.—To the maximum extent practicable, the task forces shall meet collectively not less than once each year.

“(iv) DUTIES.—Each task force shall—

“(I) inventory existing or potential Federal and State approaches to facilitate reviews associated with the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, including best practices that—

“(aa) avoid duplicative reviews to the extent permitted by law;

“(bb) engage stakeholders early in the permitting process; and

“(cc) make the permitting process efficient, orderly, and responsible;

“(II) develop common models for State-level carbon dioxide pipeline regulation and oversight guidelines that can be shared with States in the geographical area covered by the task force;

“(III) provide technical assistance to States in the geographical area covered by the task force in implementing regulatory requirements and any models developed under subclause (II);

“(IV) inventory current or emerging activities that transform captured carbon dioxide into a product of commercial value, or as an input to products of commercial value;

“(V) identify any priority carbon dioxide pipelines needed to enable efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects at increased scale;

“(VI) identify gaps in the current Federal and State regulatory framework and in existing data for the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines;

“(VII) identify Federal and State financing mechanisms available to project developers; and

“(VIII) develop recommendations for relevant Federal agencies on how to develop and research technologies that—

“(aa) can capture carbon dioxide; and

“(bb) would be able to be deployed within the region covered by the task force, including any projects that have received technical or financial assistance for research under paragraph (6) of section 103(g) of the Clean Air Act (42 U.S.C. 7403(g)).

“(v) REPORT.—Each year, each task force shall prepare and submit to the Chair and to the other task forces a report that includes—

“(I) any recommendations for improvements in efficient, orderly, and responsible issuance or administration of Federal permits and other Federal authorizations required under a law described in subparagraph (C)(ii)(I); and

“(II) any other nationally relevant information that the task force has collected in carrying out the duties under clause (iv).

“(vi) EVALUATION.—Not later than 5 years after the date of enactment of this Act [Dec. 27, 2020], the Chair shall—

“(I) reevaluate the need for the task forces; and

“(II) submit to Congress a recommendation as to whether the task forces should continue.”

PLACEMENT IN UNITED STATES CODE

Pub. L. 114-94, div. D, title XLI, §41014, Dec. 4, 2015, 129 Stat. 1762, provided that: “The Office of the Law Revision Counsel is directed to place sections 41001 through 41013 of this title in chapter 55 of title 42, United States Code, as subchapter IV.”

Executive Documents

EXECUTIVE ORDER NO. 13766

Ex. Ord. No. 13766, Jan. 24, 2017, 82 F.R. 8657, which related to expediting environmental reviews and approvals for high priority infrastructure projects, was revoked by Ex. Ord. No. 13990, §7(a), Jan. 20, 2021, 86 F.R. 7041, set out in a note under section 4321 of this title.

EXECUTIVE ORDER NO. 13807

Ex. Ord. No. 13807, Aug. 15, 2017, 82 F.R. 40463, which related to environmental review and permitting process for infrastructure projects, was revoked by Ex. Ord. No. 13990, §7(b), Jan. 20, 2021, 86 F.R. 7042, set out in a note under section 4321 of this title.

§ 4370m-1. Federal Permitting Improvement Steering Council

(a) Establishment

There is established the Federal Permitting Improvement Steering Council.

(b) Composition

(1) Chair

The Executive Director shall—

- (A) be appointed by the President; and
- (B) serve as Chair of the Council.

(2) Council members

(A) In general

(i) Designation by head of agency

(I) In general

Each individual listed in subparagraph (B) shall designate a member of the agency in which the individual serves to serve on the Council.

(II) Redesignation

If an individual listed in subparagraph (B) designates a different member to serve on the Council than the member designated under subclause (I), the individual shall notify the Executive Director of the designation by not later than 30 days after the date on which the designation is made.

(ii) Qualifications

A councilmember described in clause (i) shall hold a position in the agency of deputy secretary (or the equivalent) or higher.

(iii) Support

(I) In general

Consistent with guidance provided by the Director of the Office of Management and Budget, each individual listed in subparagraph (B) shall designate 1 or more appropriate members of the agency in which the individual serves to serve as an agency CERPO.

(II) Reporting

In carrying out the duties of the agency CERPO under this subchapter, an