



**Federal Mine Safety and Health Review Commission
Contingency Plan
Agency Operations in the Absence of Appropriations
September 28, 2021**

The Federal Mine Safety and Health Review Commission has reviewed the guidance provided in OMB Circular No. A-11, Section 124 (2020). The Commission provides the following specific information as required:

Brief summary of significant agency activities that will continue and those that will cease during an appropriations hiatus:

During an appropriations hiatus, the Commission will adjudicate only those Federal Mine Safety and Health Act of 1977 disputes that arise from a mine emergency or where there is a reasonable likelihood that either the safety of life or the protection of property would be compromised in some significant degree by failure to provide prompt adjudication. All other agency activities will cease during the hiatus, regardless of its duration.

Estimated time to complete shutdown:

This shut-down could be completed in one-half day.

Number of employees expected to be on-board before implementation of plan:

The Commission expects to have 60 employees on-board before implementation of the plan.

Resuming Operations:

Once operations are restored, furloughed employees will be notified by phone and email via the Commission's MIR3 mass notification system to report to work the next day and resume operations. Supervisors will allow the use of annual leave, compensatory time off, or credit hours if reporting to work on the day specified by the agency is not possible for employees to return to work. All Commission functions, including oversight and issuance of contractor work orders will resume immediately after the furlough ends.

Critical IT contract personnel will be required to report to work earlier to begin the process of resuming normal IT operations and ensuring that all employees can access all components of the network infrastructure before they are expected to report to work.

Total number of employees to be retained under the plan because:

- Their compensation is financed by a resource other than annual appropriations: **Yes**
- They are necessary to perform activities expressly authorized by law: **Yes**
- They are necessary to perform activities necessarily implied by law: **Yes**
- They are necessary to the discharge of the President's constitutional duties and powers: **None**
- They are necessary to protect life and property: **Seven**
 - **One** administrative law judge to provide emergency adjudication and monitor pleadings for those relating to a mine emergency or implicating a reasonable likelihood that either the safety of life or the protection of property would be compromised in some significant degree by failure to provide prompt adjudication.
 - **One** supervisory attorney advisor to act as docket clerk to maintain the basic functions of the eCMS filing system to facilitate the continued operation in the event of emergency hearings and to prevent destruction of information or release of confidential information.
 - **One** acting Executive Director performing only limited 'excepted' and 'necessarily implied' functions, to include 1) determinations, in consultation with the Chair, as to what is excepted or necessarily implied work; 2) administrative work necessary to disburse benefit payments under entitlement programs for which an indefinite appropriation provides the funding for the benefits, and 3) coordination with IT Contractors to prevent potential threats to the security, confidentiality and integrity of agency information and information systems.
 - **One** administrative officer on call only for limited 'excepted' and 'necessarily implied' functions, to include administrative work necessary to disburse benefit payments under entitlement programs for which an indefinite appropriation provides the funding for the benefits.
 - **Two** IT contractors performing contract activities that are fully funded prior to the lapse, and in the event such funding lapses only activities necessary to prevent potential threats to the security, confidentiality and integrity of agency information and information systems.
 - **One** special assistant on call only to facilitate emergency video hearings.
- They are Presidential appointees: **Three**

Virtual Hearings:

Currently all hearings are scheduled and conducted virtually. In view of the risks presented by the novel coronavirus COVID-19, the Commission's Office of the Chief Administrative Law Judge ("OCALJ") has, effective December 9, 2020, suspended all in-person hearings, settlement judge conferences, and mediations until December 31, 2021.