



**Federal Mine Safety and Health Review Commission
FY 2026 Lapse in Appropriations
Contingency Plan**

In accordance with A-11, section 124.2, the Federal Mine Safety and Health Review Commission plans to enact an orderly shutdown of the Commission in the absence of appropriations, which is summarized in detail below.

Lapse Plan Summary Overview	
Estimated time (to nearest half day) required to complete shutdown activities:	0.5 days
The total number of agency employees expected to be on board before implementation of the plan:	55 employees
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	48 employees
Total number of employees to be retained under the plan for each of the following categories (may include duplicated counts):	
Compensation is financed by a resource other than annual appropriations:	0 employees
Necessary to perform activities expressly authorized by law:	4 employees
Necessary to perform activities necessarily implied by law:	2 employees
Necessary to the discharge of the President's constitutional duties and powers:	0 employees
Necessary to protect life and property:	1 employee
Brief summary of significant agency activities that will continue during a lapse:	
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 to some significant degree by failure to provide prompt adjudication.	
Brief summary of significant agency activities that will cease during a lapse:	
All other agency activities, except as noted above, will cease during a lapse, regardless of its duration.	

1. OVERVIEW

The purpose of this instruction is to establish procedures to govern the operations of the Federal Mine Safety and Health Review Commission (FMSHRC) in the event of a lapse in appropriations. All agencies are required to maintain a contingency plan in the event of a lapse in appropriations.

The Antideficiency Act restricts the conduct of business by agencies during a lapse of appropriations. The Antideficiency Act generally prohibits agency heads and their employees from making or authorizing expenditures or obligations in excess of appropriations; making or authorizing expenditures or obligations of funds required to be sequestered under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; and accepting voluntary services for the United States (US) or employing others to perform personal services in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property. Violations of the Antideficiency Act can result in administrative and criminal penalties.

2. SCOPE

This instruction applies to all offices and employees within FMSHRC.

3. POLICY

In the event of a lapse in appropriations, the policy of FMSHRC is to:

- A. Commence the orderly and expeditious shutdown of all non-emergency functions by securing files, property, and office facilities.
- B. Ensure that FMSHRC meets its responsibilities to the parties in current case proceedings consistent with the Antideficiency Act.
- C. Ensure that FMSHRC employees are fully informed as to the reasons for the shutdown, and that payroll and other employee benefit responsibilities are met.

4. OPERATIONS

This plan provides FMSHRC with the required flexibility to: protect Federal legal actions already taken (but not pursue new cases) and to deal with events that might occur during a shutdown. Here are the main points of the plan:

The plan assumes that the satellite locations will be closed and that Headquarters (HQ) will have a minimal staff present. The current plan calls for the Chair and 3 Commissioners (currently 1 Commissioner seat is vacant) and the Director of Information Technology, Chief Operating Officer (COO), and an Administrative Officer for a potential total of 7 employees.

5. RESPONSIBILITIES

The plan assigns the following responsibilities:

- A. The **Chair and Commissioners** are responsible for ensuring that FMSHRC offices take all necessary actions related to shutdown activities.
- B. The **Director of Information Technology** will continue to execute and complete critical IT duties, responsibilities, oversight, and coordination across FMSHRC in support of otherwise excepted activities and functions. Coordination with IT contractors to prevent potential threats to the security, confidentiality, and integrity of agency information and information systems.
- C. The **Chief Operating Officer** is responsible for ensuring that all necessary and appropriate actions are taken regarding administrative activities to ensure the orderly and expeditious shutdown of FMSHRC activities. These actions include the issuance of appropriate announcements and directives and implementation of the contingency plan.
- D. The **Administrative Officer** will perform only limited 'excepted' and 'necessarily implied' functions, to include 1) determinations, in consultation with the Chair and Commissioners, 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.

All Agency Employees are responsible for taking appropriate action, consistent with the guidance given in this contingency plan, regarding the orderly shutdown of activities. When there is reason to believe that a shutdown is likely to occur, management will ask all FMSHRC employees to update, if necessary, their contact information.

6. STAFF RETAINED AFTER SHUTDOWN

Presidential Appointees (PAS) are Excepted Service by statute and will constitute the core of the Headquarters staff available to evaluate situations as they arise and determine the appropriate response:

- 1 – Chair (PAS)
- 3 – Commissioners (PAS)

*The above numbers are flexible due to their staggered tenures.

Advisory staff will augment the core group:

- 1 – Director, Information Technology
- 1- Chief Operating Officer
- 1- Administrative Officer

The Advisory staff will assist in ensuring the orderly shutdown of operations and execute and complete critical IT duties, necessary to protect property. Additional headquarters and/or field staff may be called to handle emergencies arising during an appropriations lapse.

7. RESUMING OPERATIONS

Once operations are restored, furloughed employees will be notified via personal phone or personal email 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.

8. GENERAL INFORMATION

Use of agency information technology systems, communications systems, or other resources during a period of shutdown: No agency employee shall use FMSHRC information technology systems, communications systems, or other resources during the period of a shutdown unless they are designated as an excepted employee. Non-essential information technology usage is prohibited.