

**U.S. International Trade Commission  
Contingency Plan for an Orderly Shutdown of Operations  
in the Absence of Appropriations**

**Updated March 14, 2025**

**Lapse Plan Summary Overview**

Estimated time (to nearest half day) required to complete shutdown activities:	<i>1/2 day</i>
Total number of agency employees expected to be on board before implementation of the plan:	<i>444 employees</i>
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	<i>278 employees</i>

**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:	<i>0 employees</i>
Necessary to perform activities expressly authorized by law:	<i>0 employees</i>
Necessary to perform activities necessarily implied by law, including Presidentially appointed, Senate confirmed:	<i>3 employees</i>
Necessary to the discharge of the President's constitutional duties and powers:	<i>0 employees</i>
Necessary to protect life and property:	<i>Up to 163 employees</i>

**Brief summary of significant agency activities that will continue during a lapse:**

- Activities necessary for the protection of life or federal property
- Network services required to maintain information technology (IT) and physical security
- Litigation activities for which time extensions have not been granted
- Maintenance of the Harmonized Tariff Schedule of the United States
- Other activities necessary to support excepted functions

**Brief summary of significant agency activities that will cease during a lapse:**

- Investigative activities, including proceedings under:
  - Section 332 of the Tariff Act of 1930 (Tariff Act)
  - Section 337 of the Tariff Act
  - Title VII of the Tariff Act
  - Section 201 of the Trade Act of 1974
- Technical assistance to the U.S. Trade Representative and the Congress
- Processing of Freedom of Information Act (FOIA) requests

- All other government functions that do not directly support active litigation to which the USITC or the United States is a party or other activities necessary to support excepted functions

## **I. Background and Relevant Authorities**

Consistent with the authorities listed below, this is the contingency plan of the U.S. International Trade Commission (USITC) in the event of a lapse in appropriations:

- a. Office of Management and Budget (OMB) Bulletin 80-14, dated August 28, 1980, as amended by the OMB Director’s memorandum of November 17, 1981
- b. Antideficiency Act, 31 U.S.C. §§ 1341–1342
- c. “Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations,” 5 Op. Office of Legal Counsel (OLC) 1 (1981).
- d. Department of Justice (DOJ) Advisory Opinion, dated August 16, 1995, Government Operation in the Event of a Lapse in Appropriations.
- e. OMB Circular A-11, Section 124 – Agency Operations in the Absence of Appropriations (2023)
- f. Impoundment Control Act of 1974, 2 U.S.C. §§ 681-688
- g. Tariff Act of 1930, 19 U.S.C. §§ 1202-1683g
- h. Trade Act of 1974, 19 U.S.C. §§ 2101-2497b

## **II. Summary of Plan**

In the absence of appropriations, federal agencies may not incur any obligations that they cannot lawfully fund from prior appropriations, unless such obligations are otherwise authorized by law. Federal agencies may incur obligations as necessary to protect life or property and for the orderly termination of the agency’s functions, but funds may not be disbursed.

If the agency determines it is necessary to close the USITC because of a lack of necessary funding, the agency will continue to perform only the following categories of activities:

1. Those activities that are necessary to prevent an imminent and significant threat to the safety of human life or the protection of property; and

2. Those functions for which authority to continue during an appropriations lapse arises by necessary implication, including those involved in the orderly shutdown of operations and those in support of excepted activities.

The USITC will furlough all employees except the presidentially appointed, Senate-confirmed Commissioners who may continue to work but will not be paid until funds have been appropriated. The USITC may retain or recall employees to perform excepted work activities during the lapse period. But furloughed employees may not volunteer to perform their jobs on an unpaid basis, nor may the USITC accept such voluntary services from an employee.

The USITC will issue furlough notices that comply with OPM regulations by email as part of orderly shutdown activities.

The USITC will notify employees when the shutdown furlough has ended, and employees must return to work on their next scheduled workday.

### **Estimated Time to Complete Shutdown**

Most of the activities associated with the orderly shutdown of the agency's operations, including securing the agency's IT infrastructure and its records, and notifying employees of the furlough, should take no longer than a half-day.

### **Execution of the Plan**

USITC senior management will make recommendations to the Chair regarding which excepted employees may be furloughed or whether employees must be excepted from furlough and called to work to address actions to protect against immediate harm to life or government property interests or protect the Commission's excepted personnel, property and IT infrastructure.

#### **Activities that must be completed prior to plan implementation:**

- Pending payroll activity must be processed
- Upon notice that a lapse in appropriations will occur, Commission staff must make every effort to return promptly from temporary duty status/official travel

#### **Legal basis for retention of employees and description of the nature of the agency activities in which these employees will be engaged:**

- Pursuant to 31 U.S.C. § 1342, certain Commission personnel will be retained or recalled to the extent necessary to protect human life or property. These employees will perform activities that include representation of the agency in litigation, monitoring and preserving the agency's information resources, and

protecting the agency's physical assets.

- Under 5 U.S.C. § 8905(i) and § 8702(d), and 5 C.F.R. § 870.106 and § 890.113, certain activities related to the Federal Employee Health Benefits Program and the Federal Employees' Group Life Insurance Program qualify as services for emergencies involving the safety of human life or the protection of property for purposes of 31 U.S.C. § 1342. The Commission will retain personnel to the extent necessary to administer those services.

### **Resumption of Orderly Activities**

#### **Methods for notifying employees that the shutdown furlough has ended:**

- The USITC employs an Emergency Notification System (ENS) to alert employees on their personal cell phone numbers to significant operational or environmental issues that might affect or impede USITC operations. The agency will use the ENS to notify employees that the shutdown furlough has ended and direct them to return to work on their next scheduled workday following that notification. Employees should also monitor the OPM and USITC public websites and the news.

#### **Flexibilities available to supervisors if employees have problems returning to work on the day specified by the agency following a furlough:**

- Supervisors have the flexibility to grant requests for use of situational telework, annual leave, compensatory time, or credit hours to temporarily assist employees who might experience difficulties in reassuming their work schedules following a furlough.

#### **Procedures for resuming program activities, including steps to ensure appropriate oversight and disbursement of funds:**

- The Commission is a small agency with a single physical location and a well-defined, coherent set of mission elements. This provides an operational environment that facilitates recovery after a hiatus and to ensure Commission activities are resumed efficiently and effectively.
- To address the need to keep essential excepted government services and litigation support operating during a shutdown, the senior leadership and significant operational staff of the Offices of the Chair and the Commissioners, the Office of Administrative Services, the Office of the Chief Financial Officer, the Office of the Chief Information Officer, the Office of the General Counsel, and the Office of Operations are included in the list of excepted or contingently excepted staff. This ensures that the USITC retains effective oversight and control of critical operational areas, notably legal/litigation, financial management, human resources/benefits, security, and IT.