



NUCLEAR WASTE TECHNICAL REVIEW BOARD

AGENCY OPERATIONS IN THE ABSENCE OF APPROPRIATIONS CONTINGENCY PLAN

DECEMBER 2022

Summary:

Lapse Plan Summary Overview	
Estimated time (to nearest half day) required to complete shutdown activities:	<i>0.5 days</i>
Total number of agency employees expected to be on board before implementation of the plan:	<i>17 Employees</i>
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	<i>0 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:	<i>0 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>0 Employees</i>
Brief summary of significant agency activities that will continue during a lapse:	
None.	
Brief summary of significant agency activities that will cease during a lapse:	
Evaluation of the technical and scientific validity of activities undertaken by the Department of Energy (DOE) in managing and disposing of spent nuclear fuel and high-level radioactive waste will not be conducted. No findings, conclusions, or recommendations will be reported to Congress or DOE.	

PURPOSE:

This contingency plan provides guidance on actions that may be required in the event of a funding hiatus and subsequent shutdown in Board operations caused by insufficient Board funding and the failure of Congress and the President to enact a regular appropriations bill or a continuing resolution which, together, result in insufficient funding for the Board. This contingency plan describes the Nuclear Waste Technical Review Board’s (Board) plan to shut down should there be no remaining funds from prior years, no new appropriation, and no continuing resolution.

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Generally, the plan contemplates that all employees will work on the first workday of a funding lapse, an individual furlough notification will be issued to each staff member not later than 12:00 pm (noon), and Board activities will be limited to shutdown activities only. The Board has no excepted employees, or more specifically, employees required to work to ensure the safety of human life or the protection of property. Therefore, no employees will be excepted from this plan. This plan may be modified as necessary.

BACKGROUND:

The failure of Congress and the President to enact full-year or interim appropriations would result in a funding hiatus for affected federal government agencies. During such a hiatus in funding, under the Antideficiency Act, operations at affected government agencies must cease, except in emergencies or in cases where an agency has access to non-expiring (i.e., no-year or multiyear) funds. The cessation of federal government operations brought about by a hiatus in funding is commonly referred to as a government shutdown. Such government shutdowns have occurred occasionally.

Public Law 100-203, section 5051, the 1987 amendments to the Nuclear Waste Policy Act, authorizes appropriations from the Nuclear Waste Fund to support the Board and its activities. Since the agency's inception, appropriation acts through Fiscal Year 2013 authorized funds for the Nuclear Waste Technical Review Board "to be derived from the Nuclear Waste Fund, and to remain available until expended." Subsequent Board appropriations have been two-year appropriations and remain available for two fiscal years. Provided the Nuclear Waste Technical Review Board has appropriated funding remaining available until expended or until the end of an applicable two fiscal year period, it is the Board's policy that, during a funding hiatus resulting in a general government shutdown, the Board will continue routine operations as long as Board funds are available and there is no legal constraint on their use.

GENERAL PROCEDURES:

When the Board receives notification that a funding hiatus that will result in a general government shutdown is likely, the Executive Director or designee will advise the Chair and all Board staff members. However, a shutdown of Board operations will occur only after all prior-year Board funds are exhausted.

When the Administration has declared that a funding hiatus exists and when the Board has exhausted all available Board funding, the Board will begin an orderly shutdown of its operations and notify the Office of Management and Budget (OMB) of the action taken. The Board estimates that actions related to shutting down operations will require not more than one-half workday. It is expected that such a shutdown in Board operations will be of a short duration, resulting in no action being undertaken that will impede the orderly resumption of operations once funds are available.

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SPECIFIC AGENCY ACTIONS:

The following actions will be implemented in the event of the shutdown of Board operations. This plan assumes that certain preparatory work will be done in advance so it will be possible for the Board to shut down on the first workday of a funding lapse. This may include: monitoring available funding; processing as much pending priority work as possible; arranging for the receipt of mail during the shutdown; determining who is on telework and communicating with them; determining who is on leave or travel and communicating with them; rearranging travel plans as necessary or feasible; coordinating with the human resources support services provider (General Services Administration-Commissions and Board Services [GSA-CABS]); preparing individual furlough notices; notifying vendors of a possible shutdown; and keeping employees informed of developments and other relevant matters. Board staff on telework, leave, travel, or training will be responsible for providing up-to-date contact information.

1. The Executive Director or designee will notify the Chair and Board staff that shutdown action is being initiated. The Board Chair or designee will notify Board members that the Board has shut down due to a funding hiatus. Although Board members are Presidential appointees, they are not exempt from the shutdown plan because they are not “excepted employees” as defined by the Antideficiency Act. In addition, they are paid only for the days they work, and their appointments do not represent an obligation incurred by the year. To avoid a violation of the Antideficiency Act and to minimize costs, Board members will be advised that no current or new work will be continued or undertaken by Board members during a shutdown of Board operations.
2. Unless other procedures have been established, on the first workday of a lapse in appropriations, all staff should report to their work site as scheduled, but only to engage in actions necessary to shut down Board operations. The Executive Director or designee will inform staff of the status of funding and instruct them to limit work activities to those functions necessary for the orderly cessation of operations.
3. The Director of Administration will deliver furlough notifications to Board staff, who will acknowledge receipt of notification. Every effort will be made to deliver written or verbal furlough notification to each employee in person, via video telecommunication, or via telephone; however, an employee could be furloughed without first receiving a written notice of the decision to furlough. If prior written notice is not feasible, then any reasonable notice is permissible, including via facsimile, email, text message, telephone, or certified mail.
4. The Information Technology (IT) Systems Administrator will ensure that IT systems are placed in a safe and secure mode and that the Board’s website is updated to indicate that the Board is closed and will not be updating information.
5. Once employees have completed their assigned shutdown tasks and received a furlough notice, they will be instructed to leave their worksite, or if working from home, to cease work at their worksite. It is anticipated that employees will be furloughed no later than 12:00 pm (noon) on the first day of the shutdown in Board operations. Employees will be advised to listen to the news media for word of recall from furlough and to monitor the Office of Personnel Management’s (OPM) website for further furlough guidance.

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6. When office shutdown functions are completed and Board staff furloughed, the Executive Director will report to the Chair that all shutdown activities have been completed, and the Board is officially closed.
7. The Director of Administration will be responsible for notifying absent Board staff as soon as possible that they may be furloughed. As the likelihood of a shutdown increases, Board staff on telework, leave, travel, or training will be responsible for providing up-to-date contact information to their supervisor. The Director of Administration will provide furlough information to staff members based on their status as listed below.
 - **ON ANNUAL LEAVE:** Board staff members on approved annual leave will be notified at the initiation of Board shutdown activities that all annual leave is cancelled for the duration of the shutdown and that staff members will be furloughed. If a Board staff member is scheduled for authorized annual leave at the initiation of the Board shutdown, once the furlough period has ended, the Director of Administration or Executive Director, as appropriate, will make every effort to reschedule the annual leave for use before the end of the current leave year, especially if such leave may be subject to forfeiture at the end of the current leave year.
 - **ON SICK LEAVE:** Board staff members on sick leave will be notified at the initiation of Board shutdown activities that all leave is cancelled for the duration of the shutdown and that staff members will be furloughed. When funds are restored, such staff members will return to duty or be placed on sick leave, as appropriate.
 - **ON CONTINUATION OF PAY (COP) LEAVE:** Board staff members already receiving COP before furlough days have been scheduled should continue on COP. However, there will be no COP entitlement for any day that the staff member was not scheduled to work after furlough days are scheduled. Staff members will be expected to coordinate with the Director of Administration to ensure all entitlements are received.
 - **ON SCHEDULED LEAVE WITHOUT PAY (LWOP) UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA):** Board staff members scheduled to return from LWOP under FMLA during the furlough period will be notified at the initiation of Board shutdown activities that they will be furloughed, and the notice will be effective on the date of scheduled return. Board staff members scheduled to be absent on LWOP under FMLA during the furlough period (e.g., an employee who has just given birth and has requested 12 weeks of LWOP under FMLA), will be notified at the initiation of the Board shutdown activities that they will be furloughed. When funds are restored, staff members on LWOP under FMLA during a shutdown furlough may not later substitute paid time off for the days of LWOP.
 - **SCHEDULED SICK OR ANNUAL LEAVE:** No sick or annual leave, whether authorized in advance or not, may be used during a shutdown in Board operations. Upon a lapse of appropriations, such leave will be cancelled, and the Board staff

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member will be furloughed.

- **ON TRAVEL:** Board members and Board staff in a travel status, including travel in connection with both foreign and domestic training, at the initiation of Board shutdown activities will be contacted by the Executive Director or the Director of Administration and informed that they will be furloughed. Travelers will be advised to return home as soon as practicable. A prompt return will ensure that travel expenses incurred by the Board and staff members are properly incurred obligations of the Board as part of orderly shutdown activities, and the agency will reimburse these travel costs after appropriations are enacted and are available for that purpose. Once funds are restored, the Executive Director or the Director of Administration will determine whether travel will resume.
 - **AT LOCAL TRAINING:** Board staff members absent from the worksite in connection with training at a local facility will be notified when Board shutdown activities are initiated and will be instructed to notify the appropriate training officials that they must return to their duty station immediately. Such staff members will be advised that they will be furloughed for the duration of the shutdown in Board operations.
 - **ON DETAIL:** Board staff members on non-reimbursable details to other agencies must be notified of the exact date and time at which they are to be furloughed, i.e., at the initiation of Board shutdown activities, and instructed to notify the appropriate officials of the agency to which they are detailed of their furlough status. Such staff members will be advised that they will be furloughed for the duration of the shutdown in Board operations.
8. The responsible Board staff member will secure official files, documents, and other information.
 9. Administrative processing of payroll for the pay period will continue as necessary to ensure Board and staff members are paid on time for all work prior to the shutdown. Time and attendance for the current pay period through the commencement of the shutdown will be recorded in HR Links and submitted to GSA for processing by the Payroll Services Branch (PSB). PSB staff will be excepted from furlough for the minimum time required to process employee pay, in accordance with OMB Bulletin No. 80-14 (Shutdown of Agency Operations Upon Failure by the Congress to Enact Appropriations) and OPM's Guidance for Shutdown Furloughs.
 10. Designated GSA-CABS and PSB staff will remain on duty in order to perform human relations, payroll, and financial services for their customers not affected by the lapse or that have available no-year or prior year funds.
 11. The Board will work closely with its financial services provider, the U.S. Department of Agriculture's Office of the Chief Financial Officer-Pegasys Financial Services to ensure the Board does not violate the Antideficiency Act.

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12. Telephone calls will be answered by an automated system with the message stating that the Board is closed due to a funding hiatus for affected federal government agencies.
13. If a Board meeting is scheduled during a funding hiatus, the Chair in consultation with the Executive Director will determine within a reasonable timeframe whether to cancel or postpone the meeting.
14. All payments scheduled to be disbursed during the shutdown in Board operations that were authorized under prior appropriations, to include travel and per diem, contract payments, and salary, will be delayed until the shutdown is ended.
15. The Financial Manager will notify all contractors and vendors, including rented meeting facilities, non-government training providers, and any contractor scheduled to execute a contract during the anticipated shutdown in Board operations, of the funding hiatus, and state that the contracted services will be rescheduled or resumed when funds are restored, if feasible. Expenses incurred because of any cancellations will be paid in accordance with the contract when funds become available.

EMPLOYEE BENEFITS:

UNEMPLOYMENT COMPENSATION BENEFITS:

Board employees may qualify for unemployment benefits while furloughed. Eligibility depends on the specific laws of the employee's state of residence, and varies from state to state. Employees who collect unemployment benefits while on furlough will be required to repay the State for benefits received if Congress later acts to pay employees for the furlough period. The Director of Administration will ensure that the information and employment certification necessary to file unemployment compensation claims will be made available to furloughed Board staff members.

HEALTH BENEFITS:

Federal Employees Health Benefits Program (FEHB) benefits will continue during a lapse in appropriations; however, federal employees will not have the opportunity to terminate or cancel FEHB coverage. Enrolled staff members will remain covered and will incur indebtedness to the government equal to the amount of their contribution for health benefits for each pay period in which no deduction is made. The enrollee share of the FEHB premium will accumulate and will be withheld from pay upon the enrollee's return to pay status. Payroll deductions for Flexible Spending Accounts (FSAFEDS) will cease. The participant remains enrolled in FSAFEDS, but eligible health care claims incurred during non-pay status will not be reimbursed until the participant returns to pay status and allotments are successfully restarted. The remaining allotments are recalculated over the remaining pay periods to match the participant's election amount.

LEAVE ACCRUAL:

If staff members are furloughed for part of a biweekly pay period, their leave accrual will generally not be affected for that pay period. However, accumulating non-pay status hours during a leave year can affect the accrual of annual leave and sick leave over a period. For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of non-pay status from the beginning of the leave year (either in one pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period in which that 80-

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hour accumulation is reached. If the employee again accumulates 80 hours of non-pay status, he or she will again not earn leave in the pay period in which that new 80-hour total is reached.

RETIREMENT AND LIFE INSURANCE:

CSRS or FERS retirement deductions will not be taken during a furlough, and amounts “missed” during the furlough will not be collected. Government matching payments for TSP and the government share of FERS payments will not be paid during a furlough and will not be made up after. For most employees, these two benefits remain unaffected by the furlough period. However, employees for whom the furlough period, when added to previously accumulated LWOP, will cause the total non-pay time to exceed six months in the current calendar year or 12 consecutive months should contact the Director of Administration. Federal Employees’ Group Life Insurance (FEGLI) coverage continues for employees in a non-pay status without cost to the employee or to the Board, and neither incurs a debt during this period.

RESUMPTION OF OPERATIONS:

The below actions will be implemented to resume operations following a shutdown.

1. The Executive Director or designee will notify the Chair and Board staff that the shutdown has ended. The Board Chair or designee will notify Board members that the shutdown has ended.
2. Unless other procedures have been established, all staff should report to their workspace as scheduled on the first workday following the end of the shutdown.
3. The IT Systems Administrator will ensure that IT systems placed in a safe and secure mode may be accessed and that the Board’s website is updated to indicate that the Board is open.
4. As Board members and staff return to work, the Executive Director will report to the Chair that the Board is officially open.
5. The Director of Administration will ensure that payroll is processed at the earliest opportunity.
6. The Financial Manager will notify all contractors and vendors that the Board is open.

This contingency plan for agency operations in the absence of appropriations has been developed in accordance with the current version of Office of Management Budget’s Circular, A-11, Section 124. It will be reviewed and updated biennially or when required.

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