

DATE: October 30, 2025

Due to a lapse in Fiscal Year (FY) 2026 appropriations and no continuing resolution for the Department of Commerce (DOC), no further financial obligations may be incurred, except for those directly related to the orderly suspension of operations or the performance of excepted activities as defined in the Office of Management and Budget's (OMB) memorandum for Heads of Executive Departments and Agencies (dated November 17, 1981) and supplemented by the Office of Personnel Management's (OPM) memorandum (dated August 22, 1995) transmitting an updated legal opinion by the Department of Justice (DOJ).

Because your services are no longer needed for orderly suspension of operations and you are not engaged in one of the excepted functions, you are being placed in a furlough status effective October 31, 2025. This furlough, i.e., non-duty, non-pay status, is not expected to exceed 30 days. Therefore, this furlough notice expires on November 29, 2025. When a continuing resolution or a FY 2026 appropriation for DOC is enacted, you will be expected to return to duty on your next regular scheduled workday. Please monitor public broadcasts and/or the OPM's website at www.opm.gov. If the lapse in appropriations lasts longer than 30 days, DOC will be required to provide you with another furlough letter. This additional furlough letter will be posted on the DOC website for you to access.

This action is being taken because of a sudden emergency requiring curtailment of the agency's activities; therefore, no advance notification is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 Code of Federal Regulations (CFR) §752.404(d)(2). The 30 day-advance notice otherwise required by 5 CFR §359.806(a) for Senior Executive Service (SES) career appointees (other than reemployed annuitants) has been waived. If employees are being retained in your organization, they are required for orderly suspension of agency operations or they are performing one of the excepted activities defined in the two OMB memorandum.

During the furlough period, you will be in a non-duty, non-pay status and you may not work at your workplace or other alternative worksite unless and until recalled. You will not be permitted to work as an unpaid volunteer. Any paid leave (annual, sick, court, etc.) approved for use during the furlough period is cancelled.

Appeal Rights

If you are an employee in the competitive service who is not serving a probationary or trial period under an initial appointment, or if you have completed 1 year of current continuous employment under other than a temporary appointment, you may appeal this action to the Merit Systems Protection Board (MSPB). A preference eligible employee in the excepted service may appeal to MSPB if they have completed one (1) year of current continuous service in the same or similar position as the one they now hold. Employees in the excepted service who are not a preference eligible and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to MSPB if they have completed two (2) years of current continuous service in the same or similar position in an Executive agency under other than a temporary appointment limited to two (2) years or less.

Career Senior Executive Service (SES) Appointees

Career SES appointees (except re-employed annuitants) who believe requirements of 5 CFR part 359, subpart H, or the agency's procedures have not been correctly applied may also appeal to MSPB. Career SES appointees may inspect the regulations and records pertinent to this action at the following links:

Plan for Orderly Shutdown Due to Lapse of Congressional Appropriations at
<https://www.commerce.gov/furlough-information>

OHRM's SES Furlough Information webpage, including 5 CFR 359 Subpart H, at
<https://www.commerce.gov/hr/employees/ses/furlough>

How to Appeal

If you have the right to appeal to the MSPB and wish to appeal this action to the MSPB, you must file the appeal within 30 calendar days from the effective date of your furlough. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website <https://www.mspb.gov/>. MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing.

If you are a member of a bargaining unit covered by a collective bargaining agreement, you may appeal to the MSPB in accordance with the procedures outlined above or you may grieve this action in accordance with the applicable negotiated grievance procedure (NGP), but not both. You shall have been deemed to have exercised your option to raise this matter under the MSPB procedures or the NGP when you timely file a notice of appeal with the MSPB or timely file a written grievance in accordance with the provisions of the NGP.

If you file an appeal with the MSPB, the MSPB should send the Acknowledgement Order and copy of the appeal to the designated Agency Official as follows:

Christiann Burek
Acting Chief, Employment and Labor Division
Office of General Counsel
Department of Commerce
14th and Constitution Ave., NW
Washington, DC 20230
Email: cburek@doc.gov

In addition to the options set forth above, if you feel this action is the result of retaliation for "whistleblowing" activities, you may elect one of the following options: (a) appeal this action directly to MSPB and include any allegations of whistleblower retaliation, (b) file a grievance under the negotiated grievance procedure, if such allegations are permitted by your CBA, or (c) file a complaint with the Office of the Special Counsel (OSC). Whichever of the three actions you file first is considered an election to proceed in that forum with respect to your allegation of

whistleblower retaliation. If you elect to file a complaint with the OSC, you may later bring an individual right of action (IRA) appeal to the MSPB if OSC declines to seek corrective action. If you file an IRA appeal to MSPB, the MSPB will only consider whether you have demonstrated that one or more whistleblowing disclosures was a contributing factor in the Agency's taking this personnel action against you, and if so, whether the Agency has demonstrated by clear and convincing evidence that it would have taken this personnel action in the absence of the protected disclosure(s). You may not raise affirmative defenses other than reprisal for whistleblowing activities, such as claims of discrimination or harmful procedural error during an IRA appeal.

Equal Employment Opportunity Commission

If you believe that this action is the result of unlawful discrimination (because of race, color, religion, sex, national origin, age, disability, or in retaliation for engaging in EEO activity), you may contact your Bureau's designated EEO Officer within 45 days of receipt of this notice or the effective date of the furlough. To file a complaint, you must first contact your bureau's designated EEO Officer within 45 days of the receipt of this notice or the effective date of the furlough. Use of the EEO counseling process is not an election to proceed before the EEOC and does not suspend or extend any deadlines to challenge this action in any forum.

You may challenge this action before the Merit Systems Protection Board, the Equal Employment Opportunity Commission (EEOC), or through the NGP (if applicable). Your election of remedy will be determined by whichever kind of appeal or complaint you file in writing first.

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the agency funding level becomes available.

Reference: Guidance for Shutdown Furloughs, September 2025, at <https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/guidance-for-shutdown-furloughs-sep-28-2025/>