

2023 Government Shutdown Agency Information

Editor's Note: The information below was sourced from government and external sources, many of which were based on the 2019 Government Shutdown. Since 2019, many laws and government protocols have changed. These changes could impact how individual agencies administer their trade health, safety, and security obligations.

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The Bureau of Industry and Security ("BIS"), which is responsible for administering U.S. export controls applicable to dual use items, should remain relatively well-staffed. According to the Department's shutdown guidance, almost 70% of the Bureau's employees are exempted from the shutdown either because they are considered essential or because funding for their positions comes from alternative sources. The Department's shutdown guidance also notes that ongoing export enforcement will continue during the lapse in appropriations. However, as with the other agencies, even a slight reduction in personnel may make it more difficult to receive responses from BIS.



For information on U.S. Consumer Product and Safety Commission (CPSC)'s shutdown plan, please refer to the linked document and CPSC's website.



The vast majority of U.S. Customs and Border Protection (CBP) staffing at ports of entry are deemed essential and will therefore continue their normal operations with some but not significant delays. Due to support staff not being deemed essential, it may be difficult to get in touch with usual contacts, especially those located in offices not at ports of entry.



About 90 percent of the USDA's 9,500 Food Safety and Inspection Service (FSIS) employees would remain on the job but will work without pay. USDA food safety inspectors who look for problems that may lead to an outbreak will work without pay. During the shutdown, APHIS has retained a small number of staff who can be deployed to respond to agricultural emergencies. The following activities will cease during a lapse in appropriations: daily administrative activities, non-critical support, email and access to work files for non-essential staff, reimbursable agreement activities not funded, HR, IT, and budgetary support would be minimal.



During previous shutdowns, Directorate of Defense Trade Controls (DDTC) has had limited ability to process license requests, advisory opinions, and retransfers.



The Inflation Reduction Act and some of the new Climate provisions after 2019, provides funding for the compliance of certain environmental laws outside of normal appropriations. This would mean money isn't needed to enforce. CBP and the Environmental Protection Agency (EPA) may decide to screen some shipments.



The Federal Maritime Commission's (FMC) filing systems will be shut down starting at Noon EST on the day following the shutdown. Notice will be provided electronically indicating that submissions and filings will not be accepted for the duration of the shutdown.



During shutdowns, U.S. Fish and Wildlife Services (FWS) has operated at the ports as normal since the wildlife inspection program is funded by user fees and not appropriated funds. However, issuance of Import/Export licenses and Designated Port Exception Permits will be suspended during the shutdown.



FDA

U.S. Food and Drug Administration (FDA) employees considered non-essential will be furloughed and consequently, routine regulatory and compliance activities at FDA will be put on hold. FDA officials will consult with public health experts and other senior leaders regarding which FDA activities address threats to human life and safety and, thus, should continue during the shutdown. FDA will likely not accept new medical product applications that require fee payment or reviewing drug applications that are not user-fee funded. FDA's Center for Drug Evaluation and Research ("CDER") will more than likely pause non-emergency over-the-counter monograph drug activities because these activities were determined not to address immediate threats to human life and safety. In addition, the thirty-day waiting period before sponsors of investigational new drugs may conduct clinical trials will more than likely pause during the shutdown unless the drugs are considered emergency drugs. During the shutdown, FDA will seek to utilize carryover "user fee" funding to continue review of certain applications that require a user fee, such as New Drug Applications, Biologics License Applications, and Premarket Approval applications for medical devices, if such fee has been paid. However, FDA may require more time than what agency timeframes allot to review these applications. FDA cannot accept new user fees during the shutdown. If fee payment is required, sponsors must wait until the government reopens.



During the last shutdown, Office of Foreign Asset Controls (OFAC) continued to update its sanction blacklist database. OFAC will also continue to develop, administer sanctions and policies with a national security interests.



Transportation Security Administration (TSA) Inspectors are deemed to be essential and will continue to be called into work. However, it is important to note that in previous shutdowns, there were significantly increased rates of agents calling in sick or not showing up to work, which may cause additional delays.

