

**ALERT**

# Day 7 of the Government Shutdown: Updates on Activities of Selected Departments and Agencies

---

October 7, 2025

October 7, 2025 marks Day 7 of the government shutdown. Multiple press reports indicate not much progress has been made thus far in resolving the shutdown dispute. On a Sunday morning show on Fox News, Senate Majority Leader John Thune said: "Right now, we're at a stalemate." The Senate was in session on October 3 and October 6 but was unable to pass an extension of the funding. The House is not in session. White House economic adviser Kevin Hassett said on Sunday that if the President determines that negotiations are not productive, he will begin layoffs – echoing a memo issued by OMB before the shutdown (referenced in our prior alert), which stated that certain federal workers could be "RIF'ed," essentially fired, instead of furloughed. Several press reports have stated that in past shutdowns, federal workers have not been fired. Additionally, several news reports have indicated that the Administration has paused funding for certain transportation and energy projects in Democratic-majority states.

Wiley is helping government contractors, grant recipients, and other clients across numerous industries to navigate disruptions related to this shutdown. Our multidisciplinary team is closely monitoring developments with agencies affected by the shutdown.

Below are updates and some highlights from shutdown plans for some of the agencies we are tracking, including the Departments of Agriculture, Commerce, Homeland Security, Justice, State, and Treasury; Environmental Protection Agency, Federal Communications Commission, Federal Trade Commission, Food and Drug Administration, and Government Accountability Office, as well as the

## Authors

---

Committee on Foreign Investment in the United States, the Office of Foreign Assets Control, the Office of Science and Technology Policy, and the Office of the United States Trade Representative.

### **For Government Contractors:**

Contractors with potential protests or claims should carefully review the shutdown rules of their forum and any litigation-specific scheduling orders because one size does not fit all. For bid protests, the Government Accountability Office (GAO) is closed, and the electronic filing system, EPDS, is inaccessible. Deadlines for the filing of new protests that fall on days during the shutdown are extended to the first day that GAO resumes operations. Unlike GAO, the Court of Federal Claims (COFC) is open and unless otherwise ordered, all scheduled matters are to proceed as scheduled and all filing deadlines remain in effect. Like the COFC, the Federal Circuit court is open and oral arguments scheduled during the shutdown are to proceed. Both plans are complicated, however, by the fact that some Department of Justice civil litigators are furloughed. For claims litigation, the Armed Services Board of Contract Appeals has furloughed all non-essential personnel but remains open to receive new appeal filings and expects parties to submit timely notices of appeal despite the shutdown. For appeals that have already been filed, filing deadlines are suspended during the shutdown. The Civilian Board of Contract Appeals remains open to accept filings and similarly cautioned that any statutory limitation on time for a filing, like a notice of appeal, will not be waived or tolled during the shutdown. Each judge has discretion to modify other deadlines.

You can read our complete shutdown suggestions for government contractors in our September 26 alert.

### **Department of Agriculture (USDA):**

Under USDA's Lapse of Funding Plan, nearly half of USDA employees should be furloughed.

The Food Safety and Inspection Service (FSIS) has about 93% of its employees working. They will continue to conduct food safety operations, including meat, poultry, and egg product inspections, and will continue to monitor outbreaks and recalls. The Animal Plant and Health Inspection Service (APHIS) is also continuing many functions

Mary Beth Schultz  
Partner

202.719.3471  
mschultz@wiley.law

Alexandrine De Bianchi  
Public Policy Advisor

202.719.3125  
adebianchi@wiley.law

Crystal Tully  
Special Counsel  
202.719.4348  
ctully@wiley.law

Kara M. Sacilotto  
Partner  
202.719.7107  
ksacilotto@wiley.law

Sara Beth Watson  
Of Counsel  
202.719.7071  
swatson@wiley.law

Ian L. Barlow  
Of Counsel  
202.719.4994  
ibarlow@wiley.law

Tessa Capeloto  
Partner  
202.719.7586  
tcapeloto@wiley.law

Nick Peterson  
Of Counsel  
202.719.7466  
npeterson@wiley.law

Greta M. Peisch  
Partner  
202.719.3378  
gpeisch@wiley.law

Nova J. Daly  
Senior Public Policy Advisor  
202.719.3282  
ndaly@wiley.law

Lori E. Scheetz  
Partner  
202.719.7419  
lscheetz@wiley.law

## **Practice Areas**

---

Administrative Procedure

Antidumping and Countervailing Duties/  
Trade Remedy Cases

Bid Protests

Emerging Technologies

Environment & Product Regulation

Export Controls and Economic Sanctions

through user fees, carry-over funds, and other funds and exceptions including: Agriculture Quarantine Inspections, animal import and export work, and animal and plant emergency programs, such as ongoing efforts to combat New World Screwworm and highly pathogenic avian influenza.

The Agricultural Marketing Service (AMS) is continuing to conduct commodity grading, inspection, and assessments, and specialty crop inspections, while country of origin labeling, the National Organic Program, and the Packers and Stockyards work is suspended.

The Supplemental Nutrition Assistance Program (SNAP) will provide October benefits, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) will have funding for a short period of time (press outlets have reported funds may be available for a week or two after the shutdown began) before its funds will be depleted.

Most Farm Production and Conservation (FPAC) activities have been significantly curtailed, with about 75% of employees furloughed. News reports have indicated that the Administration plans to announce \$10 billion or more in tariff relief aid to U.S. farms as soon as this week. Details of that remain unclear.

### **Environmental Protection Agency (EPA):**

On October 1, many EPA staff were working reportedly using carryover funds; it is not clear how long this will continue. Under EPA's Contingency Plan for Shutdown, approximately 89% of the staff will be furloughed and, unless necessary for excepted or exempted activities, many activities stopped, including: (1) research and publication of research results; (2) civil enforcement inspections; and (3) issuance of permits, guidance, regulations, and policies.

Section 4 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) authorizes EPA to collect annual maintenance fees from pesticide registrants, and the spending is not contingent on receiving permission in the appropriations act. This is not true for all fee-based programs. The Toxic Substances Control Act's (TSCA) fee program is different from the FIFRA program and is not in EPA's plan. Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), EPA can enter into settlements and use

Food & Drug  
Foreign Agents Registration Act (FARA)  
FTC and Consumer Protection  
Government Contractors & Grantees  
Government Contracts  
International Trade  
National Security  
Oversight, Investigations & White Collar Enforcement  
Pesticides and FIFRA  
Public Policy  
Tariffs & Trade Policy  
Telecom, Media & Technology  
Toxic Substances Control Act (TSCA)  
Trump Administration Resource Center  
TSCA Resources  
White Collar Defense & Government Investigations

the proceeds for response activities at the specific site as long as there is money in the account.

### **Food & Drug Administration (FDA):**

FDA's Funding Lapse Plan calls for retaining 86% of its employees, making it one of the agencies the least impacted by the government shutdown. FDA will continue to carry out user fee-funded activities including the review of pending drug, biologic, and medical device applications, and requests to "conduct important clinical research" until carryover user fee funding is depleted. Non-user fee-funded programs, such as applications for human and animal food ingredient premarket review, will cease to operate during the shutdown. The agency will continue core public health activities such as monitoring and responding to foodborne illness outbreaks and adverse event reports, import screening, and for cause inspections of regulated entities.

During the funding lapse, FDA is unable to accept regulatory submissions that require payment of user fees, which includes new drug applications, biological product applications, and medical device submissions. The agency will limit routine inspections of food and medical products to prioritize inspections "necessary to address imminent threats to the safety of human life."

### **Federal Communications Commission (FCC):**

As noted in this month's Wireless Roundup, the shutdown has led the FCC to furlough ~88% of its workforce and suspend non-essential functions with exceptions for activities funded through sources other than lapsed appropriations. Licensing services and equipment authorization activities have ceased. Certain spectrum auction, supply chain reimbursement, and Universal Service Fund disbursement activities will continue with minimal staffing. Activities necessary to protect life and safety, among other essential activities, will continue. Notably, the Network Outage Reporting System (NORS), Disaster Information Reporting System (DIRS), and Electronic Comment Filing System (ECFS), among other databases, will remain available. Please note that comment and filing deadlines are tolled during the shutdown, with a few important exceptions. These include deadlines for responses in enforcement matters, NORS and DIRS filings, certain spectrum auction filings, and responses to Broadband Data Collection (BDC) challenges, which all remain due as scheduled. Unexcepted deadlines falling during the shutdown will be extended to the day after the resumption of normal operations, though past practice suggests the deadlines could be further extended to at least two business days after the agency reopens upon further notice. FCC notices for bureau-specific guidance should be monitored and preparations for delays in approvals and regulatory actions should be made. FCC guidance on the shutdown can be found [here](#) and [here](#).

### **Federal Trade Commission (FTC):**

Under the FTC's updated Shutdown Plan, most agency work will stop. In general, investigations and litigation will only continue where suspension would cause consumers to suffer ongoing financial harm or compromise the FTC's ability to obtain monetary relief. This means some investigations might remain open if there are pressing statute of limitations concerns. The FTC will also continue litigating cases with a pending motion for preliminary injunction or a temporary restraining order in place but no preliminary injunction. In other federal

court litigation, the FTC will seek a stay. Deadlines for administrative litigation before the agency's administrative law judges and for responding to civil investigative demands and subpoenas will be extended by the number of days the agency is closed. Outside of litigation and investigation, the FTC will continue accepting Hart-Scott-Rodino premerger notification filings. The plan also notes that half of competition personnel will be exempted from furlough, but only 19% of consumer protection personnel will be exempted.

#### **Office of Science and Technology Policy (OSTP):**

Of 23 total OSTP employees, nine are retained and 14 are furloughed, according to the White House Contingency Plan for the Executive Office of the President. The plan does not specifically indicate which activities are continuing and which are not. According to Axios, an OSTP spokesperson said the office is "continuing to execute" on the President's AI action plan.

#### **Department of Justice (DOJ):**

- **Civil Enforcement:** The government shutdown will likely stall civil enforcement actions as attorneys and agents are either sent home or forced to make do with fewer resources. The shutdown also compounds existing strains – many enforcement matters are already slowed by government staffing shortages and resource constraints. Emergency or high-profile cases may continue, while routine investigations and litigation could grind to a halt. In the short term, companies facing enforcement actions may get some breathing room but ultimately, the shutdown will add costs, unpredictability, and strategic complexity. Companies should use any short-term pause to reassess exposure, review and update compliance measures, and prepare for an accelerated pace of activity once the shutdown ends.
- **FARA/National Security:** The DOJ's FY 2026 Contingency Plan covers DOJ operations during a lapse in appropriations. Among the DOJ components identified in the Plan include the National Security Division, which is the DOJ division that oversees, among other things, the administration and enforcement of the Foreign Agents Registration Act (FARA). Although FARA is not specifically referenced in the Plan, it notes that "excepted employees will continue work on pending counterterrorism, espionage, export control, sanctions violations and cybersecurity prosecutions and investigations; coordinate and supervise the Department's international terrorism, domestic terrorism, and weapons of mass destruction matters; and continue to review Committee on Foreign Investment in the United States matters..." (*See our sections below for additional details on CFIUS and export controls.*) Given that FARA targets, in part, espionage activities in the United States, together with the Administration's recent Executive Order referencing FARA enforcement in the context of combating domestic terrorism, it is possible that DOJ is continuing to work on FARA-related issues/enforcement during the shutdown. In terms of FARA filings, the DOJ Foreign Agents Registration Unit has not posted any announcement regarding submitting filings or the tolling of deadlines during the shutdown. While the FARA database shows no new filings as of October 1 (the first day of the shutdown), DOJ's FARA eFile system remains functional, allowing for registered foreign agents to continue submitting required filings to DOJ. As a result, absent any explicit guidance from DOJ/the NSD otherwise, it would be prudent for registered foreign agents to submitting their DOJ filings per the required deadlines, and for any foreign agents who are not yet registered to do so within the

10-day statutory requirement for making initial filings.

### **International Trade Policy:**

Trade policy and enforcement agencies' plans for the shutdown vary but demonstrate that the Administration will continue high-priority trade actions and negotiations – but with highly varied impact across the main-trade related agencies, with the greatest impact on the Department of Commerce's International Trade Administration (ITA). The Department of Commerce's Plan for Orderly Shutdown Due to Lapse of Congressional Appropriations outlines that the Bureau of Industry and Security, which administers export controls as well as investigations under Section 232 of the Trade Expansion Act of 1962, will retain 336 employees out of 445. However, ITA, which has broad and far-reaching trade mandates, will be down to only 60 employees out of 1,271. ITA functions include administering U.S. antidumping and countervailing duty laws, providing industry-specific analysis related to U.S. manufacturing sectors, supporting trade negotiations, and assisting U.S. businesses in accessing foreign markets. Given the extent of furloughed employees, these functions will be significantly curtailed during a shutdown.

In contrast, the Office of the U.S. Trade Representative's Contingency Plan for Shutdown of Agency Operation in the Absence of Appropriations states that no employees will be furloughed, citing the necessity of staff in discharging the President's constitutional duties to conduct foreign relations (and in particular, citing the administration of the tariff program under the International Emergency Economic Powers Act that served as a basis for worldwide reciprocal tariffs – among tariff actions).

The U.S. Department of Homeland Security's Procedures Relating to a Lapse in Appropriations estimates that 63,243 Customs and Border Protection employees out of 67,792 would be exempted from furlough and would be retained in a shutdown, apparently including all employees related to enforcing trade laws and facilitating importation. Although many key trade functions will continue, others will be delayed and the trade agencies may suffer from a lack of support from other agencies that participate in trade policy matters, such as the Department of Agriculture, Food and Drug Administration, and the State Department, among others.

### **Committee on Foreign Investment in the United States (CFIUS):**

Lights are on at the Committee on Foreign Investment in the United States (CFIUS) but compliance only extends to outside parties.

During this government shutdown, all CFIUS deadlines – such as case initiations, reviews, and decisions – are tolled pursuant to 31 C.F.R. § 800.604 until Congress passes a funding bill and the President signs it. Most CFIUS personnel are still at work with varying staffing and operational limitations across CFIUS member agencies. The Department of the Treasury, which chairs CFIUS, has informed parties that CFIUS may continue to act on materials submitted for notices or declarations (voluntary or mandatory) or mitigation agreements. Nonetheless, outside parties must still make mandatory filings at least 30 days prior to closing their transactions, and parties subject to a CFIUS mitigation agreement must still comply with their obligations (such as audits and reports) on time. That said, parties can and will likely file cases before CFIUS during the pendency of the shutdown; and these will stack up. As a result, depending on the extent of this shutdown,

investors should expect potentially significant delays in the CFIUS process, especially getting deals cleared.

After the government shutdown ends, CFIUS likely will stagger the initiation of new cases in the order in which they were filed. Thus, investors should file as soon as possible to get in front of the potential CFIUS traffic jam. One particular concern for investors with mandatory filing requirements: While parties can close their transaction 30 days after filing with CFIUS during this shutdown, doing so runs risks of CFIUS action (mitigation and potential blocking) once CFIUS is back on track and reviews the filing.

#### **Export Controls:**

Already contending with licensing review bottlenecks, the U.S. government shutdown has further exacerbated the challenges faced by U.S. exporters requiring licenses for export control and/or economic sanctions reasons. Both the U.S. Department of Commerce's Bureau of Industry and Security (BIS), which administers the commercial and dual-use export controls in the Export Administration Regulations (EAR), and the U.S. Department of State's Directorate of Defense Trade Controls, which administers the munitions-related export controls in the International Traffic in Arms Regulations (ITAR), are continuing to review license applications falling under "excepted functions," which are limited to applications urgently required for national security or safety of life and property. The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), which administers economic sanctions laws and regulations, is taking a similar approach. All other non-excepted license submissions (and many other activities, such as Commodity Jurisdiction reviews) are, for all intents and purposes, on hold until Congress restores funding. This pause in licensing reviews appreciably limits the ability of certain U.S. companies to export goods and services to international markets and to engage in technology exchanges with foreign persons in the United States.

\* \* \*

Wiley is continuing to track shutdown-related developments, and our cross-disciplinary attorneys have extensive experience at multiple government agencies and have worked in Congress. Please contact any of the authors with questions about this alert or other issues related to the 2025 shutdown.

*Emma Howard, a Law Clerk at Wiley Rein LLP, contributed to this alert.*