

How the Government Shutdown Affects FCC Operations

Update: Perhaps in response from the consumer product industry suffering from delays (among other stakeholders), the FCC [announced](#) on Friday, January 18, 2019 that it was reactivating its Equipment Authorization System (EAS) to permit a limited number of RF device applications to be granted during the government shutdown. The EAS system was taken offline earlier this month following the FCC's exhaustion of funds. By resuming operations, private laboratories that perform equipment testing under FCC-delegated authority (known as Telecommunications Certification Bodies or TCBs) will be able to process routine applications for RF equipment authorization and issue grants where no FCC staff oversight or support is necessary. However, the practical effect of this action is limited because FCC staff will not be providing any technical or administrative support during the shutdown, and TCBs will remain unable to grant applications that are not routine or likely generate technical questions from FCC staff in the ordinary course. Thus, while this measure relieves some delays to the RF device application backlog, it is unlikely to help most applicants seeking to launch new products while the government shutdown is in effect.

Original

As of January 3, 2019, the Federal Communications Commission (FCC) has suspended most of its operations for the duration of the government shutdown due to the agency's exhaustion of available funds. This alert summarizes how and the extent to which the shutdown affects FCC operations, based on the FCC's plan for orderly shutdown released on December 18, 2018 and [Public Notice](#) released on January 2, 2019.

During the shutdown, all FCC operations will cease with the exception of those (1) immediately necessary for the protection of life or property, (2) funded through a source other than lapsed appropriations (such as spectrum auction activities), and (3) corresponding to other excepted activities. In particular, equipment authorizations and licensing services are suspended. This means that manufacturers seeking to have their radio frequency devices certified for marketing, sale or operation purposes and parties seeking spectrum licenses, among other authorizations, will be unable to obtain such grants for the pendency of the shutdown. All rulemaking, enforcement and complaint proceedings are similarly suspended. The FCC will also cease all consumer protection and local competition enforcement activity, as well as consumer complaint support, for the duration of the shutdown.

In addition, the FCC's informal 180-day shot clock for the review of significant transactions requiring prior FCC consent has been suspended. The individual shot clock for each pending transaction is stopped on the day of review that coincides with the last full business day before the lapse in funding (which, in this case, is January 2, 2019). The shot clocks will be restarted on the business day following the day of return to normal operations. As a result of the shot clock suspensions, the FCC's review of a number of transactions, including the closely watched proposed merger between Sprint and T-Mobile, will be delayed.

All normal filing deadlines falling within the period of suspended operations, such as for filing comments in rulemaking proceedings or filing regulatory fees or penalties, have been extended to the second day following the normal resumption of FCC operations. All authorizations scheduled to expire during the shutdown will be similarly extended until resumption of FCC operations. All spectrum auction filing deadlines will continue to apply, however, and the shutdown does not affect the effective date of FCC actions or other events or filing

deadlines with entities other than the FCC, even if such filings are also made with the FCC. Note that any filing deadlines that fall *outside* of the suspension period will not be automatically extended; nevertheless, the FCC will consider requests for extensions in the normal course of business, once it resumes operations.

Even activities unrelated to the FCC's regulatory operations may be affected by the shutdown. For example, it was recently reported that FCC staff who were anticipated to attend the annual Consumer Electronics Show in Las Vegas next week have cancelled their trip due to a lack of appropriated funds.

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