

**Consumers Union, Consumer Federation of America, National Consumers League, Consumer Action, National Consumer Law Center, Public Citizen, National Association of Consumer Advocates, US PIRG**

**October 11, 2013**

**Dear Member of Congress:**

As the government shutdown continues, a coalition of consumer organizations has compiled information about how the shutdown is affecting the safety and wellbeing of millions of American consumers. We are sharing this document with you today.

Consumers rely on the government to ensure the safety of the food they eat, the air they breathe, the products they use, the cars they drive, and the planes on which they fly. Consumers also expect that the government will help to protect them from predatory financial schemes, fraud and scams. Many of these consumer protections have been significantly curtailed as a result of the shutdown.

**Airline Safety**

At the Federal Aviation Administration (FAA), 15,514 of 46,070 employees (34%) have been furloughed. Air traffic controllers and baggage screeners are considered essential and are on the job so air travel continues. However, most of the staff that supports the air traffic controllers are on furlough. Virtually the entire safety inspection force has been sent home, with only one manager at every office across the country left to answer the phones. This is unprecedented in U.S. aviation history; even during the 1996 government shutdown, most safety inspectors remained on the job. Earlier this week, FAA announced plans to bring back 800 inspectors, oversight staff, and others. But that is only about 15% of the FAA's furloughed airline safety personnel.

**Food Safety**

During the shutdown, the Food and Drug Administration (FDA) has retained about 55% of its staff. According to the Health and Human Services' shutdown plan: "FDA will be unable to support the majority of its food safety, nutrition, and cosmetics activities." This means that FDA will not conduct routine food safety inspections, some compliance and enforcement activities and will not be monitoring imports. Much of the laboratory and scientific research necessary to inform public health decision-making also will not be conducted.

Most Department of Agriculture (USDA) inspectors of meat and poultry continue to work. The USDA's Food Safety Inspection Service will continue manning every meat production facility with full-time inspectors. However, a meat and poultry hot line consumers can call for information about food safety or to report problems is closed. The

agency has said that “A lengthy hiatus would affect the safety of human life and have serious adverse effects on the industry, the consumer and the Agency.”

The Centers for Disease Control and Prevention (CDC) has 68% of its staff furloughed, which means that CDC is at significantly reduced capacity to identify and respond to foodborne illness outbreaks, and is unable to support state and local partners in disease surveillance. PulseNet, CDC’s national network of public health laboratories that detects multi-state food-borne illness outbreaks was non-functioning as a result of the shutdown. This hampered CDC’s capacity to track the recent Salmonella outbreak linked to poultry that sickened close to 300 people. The employees who run PulseNet are now back to work since the CDC determined that PulseNet was vital to protecting the public from “imminent threats.” Still, consultation with states and laboratory work to link outbreaks that might cross state borders will remain at reduced capacity during the shutdown.

## **Environment**

The Environmental Protection Agency (EPA) furloughed 96% or 16,205 employees, leaving 613 workers on the job. Most EPA operations have come to a halt. EPA programs to protect public health, air quality, and safe drinking water and to regulate pesticides and pollution are mainly longer-term in nature and therefore are not considered essential to prevent imminent risk to human health. Clean up at 505 Superfund sites (property contaminated by toxic chemicals) in 47 states has been suspended. Some laboratory staff continues to work as are emergency responders (responding to environmental emergencies). Some limited enforcement activities continue, but with skeletal staff.

EPA’s Energy Star program for certifying energy efficient appliances and electronics is currently closed. EPA also will not be updating its fuel economy website with new vehicle fuel-economy ratings. The consequence is that there will be no EPA oversight of the accuracy of new fuel economy ratings until the government reopens.

## **Financial Services/Investor Protections**

The Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) are both funded through the appropriations process and thus, are directly affected by the shutdown. The CFTC, which oversees the commodities market and the bulk of the derivatives market, was immediately forced to furlough the vast majority of its 700 employees, leaving only 28 employees working at the agency. This comes at a time when both agencies are struggling under enormous workloads to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act and, in the case of the SEC, the JOBS Act. That process has virtually ground to a halt at the CFTC, where key rules to protect against risks in the derivatives market were just beginning to take effect. The shutdown also leaves the CFTC with only a handful of people to police the markets for fraud and manipulation, less than 5 of the 50 individuals who normally perform this function. The SEC has reported that it has enough carry-over funding to

allow it to operate essentially normally for “a few weeks.” But that funding will run out if the shutdown continues for an extended period of time.

The Federal Reserve, the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) are self-funded and not subject to the appropriations process. All will remain open and operational. Since the Consumer Financial Protection Bureau (CFPB) is funded through the Federal Reserve, it will also remain open and operational.

In addition, education loan borrowers who have a dispute with their loan servicer (or debt collector) will have a hard time resolving the dispute because the Department of Education’s ombudsman's office is mostly shutdown.

### **Product Safety**

Four percent of the Consumer Product Safety Commission’s (CPSC) total workforce remains on the job – that translates into 23 employees (including 5 commissioners) out of 540 full-time employees. None of the employees currently working are field investigators or port inspectors. The CPSC is conducting only business that “protects against imminent threats to human safety, and protect government property” and rulemakings, recalls, and civil penalty negotiations are suspended unless they rise to this level of threat. Saferproducts.gov, CPSC’s consumer incident data base, is receiving reports but will not be publishing them thereby denying consumers the opportunity to learn about potentially dangerous products.

Two terrible examples bring home the impact of the shutdown on the CPSC’s ability to do its critical safety work. Last Monday, a two year old girl in San Diego, California was killed when a chest of drawers with a television on top of it tipped over and fell on her, crushing her to death. A one-year-old boy from Hitterdal, Minnesota, swallowed part of a laundry pod last week and has been hospitalized due to his injuries. He was just moved out of intensive care and is breathing on his own. However, CPSC is unable to investigate these serious incidents and is unable to work to educate consumers about how to avoid these serious and preventable safety hazards.

### **Auto Safety**

The National Highway Traffic Safety Administration (NHTSA) furloughed 333 workers out of a total of 597. As a result, NHTSA is not able to alert consumers about recalls. Rulemakings, defect investigations, research, and testing is also on hold. NHTSA’s web site states that “Due to a lapse of Federal Government funding, NHTSA is unable process safety defect complaints after close of business September 30, 2013. Consumers can continue to file complaints via this website, but they will not be evaluated by NHTSA staff until funding and services are restored.” Activities funded by the Highway Trust Fund will continue. These activities include occupant protection and distracted driving research and development under the office of Traffic Injury Control. Any auto safety

defects that emerge during the shutdown will not be investigated properly, leaving consumers and our highways at risk.

### **Federal Trade Commission and Department of Justice**

Less than 20% of Federal Trade Commission (FTC) employees (approximately 241 of its 1,178 workers) are exempt from furloughs. Employees responsible for protecting life and property through the prosecution of enforcement actions are working. Most legal actions have been stayed; for those few cases where the court has not granted stays, agency work continues. However, the agency expects no rulemakings during the shutdown, and staffers overseeing the Do Not Call registry, Consumer Response Center, and spam database have suspended work. Consumers who are identity theft victims cannot access information that the FTC provides about the steps they should take or how to report the problem.

The FTC's website is not functional—on the FTC's home page, it states, “Unfortunately, the Federal Trade Commission is closed due to the government shutdown: the FTC Premerger Notification Office will be open to accept HSR filings; consumers may file FOIA requests, but they will not be processed; consumers cannot file complaints or register for Do Not Call; all public workshops, roundtables, hearings and conferences are postponed until further notice.”

The Justice Department's Antitrust Division is similarly affected. Sixty-three percent of its workforce has been furloughed. That could significantly impair its merger enforcement activities, including its pending challenge to the American Airlines/US Airways merger, and other important enforcement activities that protect consumers against harm from anticompetitive business conduct.

### **Housing Finance**

The mortgage market is operated primarily by nongovernmental entities in the private sector, but the shutdown is having an impact in this area. Mortgage loans may be delayed because the Internal Revenue Service (impacted by the shutdown) is not in a position to verify income for borrowers. In addition, the Federal Housing Administration (FHA) is operating with only a skeleton staff and is unable to do full quality control reviews of loans receiving FHA mortgage insurance through delegated underwriters. Over time, this could reduce the quality of the FHA portfolio and lead to higher losses for the insurance fund.

In the affordable rental housing field, the Department of Housing and Urban Development (HUD) has funded current contracts with public housing agencies to provide rental subsidies for very low income renters. But very shortly current funding will expire, and agencies responsible for paying landlords on behalf of very low income tenants or for directly operating housing for such tenants may be unable to meet their obligations. Assistance for homeless families and single individuals, typically provided by private, nonprofit operators using federal funds, is also at risk if the shutdown extends

further. Similarly, affordable housing developers are reporting that projects in their pipeline are on hold because officials at HUD and USDA's Rural Housing Service are unable to respond to questions, process applications for assistance, or sign off on proposed or final development deals.

### **Drug Safety and Medical Devices**

The FDA is partly funded by user fees, which are paid by pharmaceutical and medical device manufacturers. Some activities related to the user-fee funded programs, such as product approvals and safety communications for drugs and devices, will continue. About 75% of the FDA staffers who have been retained have jobs that are funded by user fees. Nevertheless, FDA's own website acknowledges that the agency "cannot predict whether we will experience delays in (the programs under the law overseeing drug testing and safety) in the event of a protracted lapse in appropriations." The website goes on to say that with regard to medical devices, "certain review activities...may be suspended during the lapse period."

### **Energy**

The Department of Energy (DOE) has furloughed approximately 69% of its personnel (9,595 furloughs out of 13,814.) DOE has some multi-year appropriations that will continue to be spent until they run out, but most DOE programs, including research and renewable energy projects, will not be able to operate for very long. Important efficiency rules related to televisions, furnace fans, and other appliances, which will save consumers millions of dollars, could be delayed because they cannot be published in the Federal Register until the government reopens.

### **Health/Social Security**

The health insurance exchanges are open, and implementation of the American Affordable Care Act proceeds. Social Security, Medicare, and Medicaid benefits are being paid, but new applications may not be processed until the government reopens. Depending on the length of the shutdown, payments to Medicare providers may be affected.

### **Telecommunications**

According to the FCC's shutdown plan, approximately 30 FCC employees – or less than 2% of its approximately 1750+ employees – have been deemed essential and exempt from the furlough. Among those deemed essential are the three Commissioners (though not their legal advisors), the inspector general, and a small number of employees who are tasked with critical functions such as the protection of life and property, disaster response operations, and integral national security functions. However, some of the FCC activities that will cease under the shutdown include: merger reviews, responses to consumer complaints, consumer protection, local competition enforcement, licensing of broadcast, wireless, and management of radio spectrum, and equipment authorizations (which bring

new electronic devices to the American public). Work has been delayed on the highly anticipated spectrum auctions and could affect the timing of the first of these auctions, which were supposed to take place in January. Finally, the FCC has ceased maintaining its online systems, leaving the public unable to access the resources, public comments, and consumer education materials available on its website.

We urge a speedy resolution of the shutdown so that the government can resume its critical role on behalf of all consumers.

Feel free to contact Rachel Weintraub with Consumer Federation of America at [rweintraub@consumerfed.org](mailto:rweintraub@consumerfed.org) or (202) 387-6121 or Ellen Bloom with Consumers Union at [ebloom@consumer.org](mailto:ebloom@consumer.org) or (202) 462-6262 for further information.

Sincerely,

Consumers Union

Consumer Federation of America

National Consumers League

Consumer Action

National Consumer Law Center (on behalf of its low income clients)

Public Citizen

National Association of Consumer Advocates

US PIRG