

CLIENT ALERT

Processing Notices of Arrival During the 2018-2019 Government Shutdown

January 10, 2019

An EPA-approved Notice of Arrival of Pesticides and Devices (NOA) is required before a pesticide may be imported into the United States. Without EPA approval of an NOA, US Customs and Border Patrol (CBP) will not release the pesticide shipment at the port of entry. During past federal government shutdowns, the importation of pesticides effectively ground to a halt. Without funds or staff, EPA's regional offices could not accept, and therefore could not process, NOA forms for pesticides. After the 2013 shutdown, EPA was determined to fix this problem, and one solution was the utilization of CBP's Automated Commercial Environment (ACE), an electronic system where importers or import brokers can file NOAs electronically. All EPA regional offices now accept electronically filed NOAs.

Most NOAs submitted on ACE are processed automatically without human review, and, therefore, they are being processed even during the current shutdown. In contrast, hardcopy NOA forms delivered to a regional office outside of the ACE portal are not being processed because they do require human intervention and review, which are not available during the shutdown. In this way, the ACE system has hopefully reduced the opportunity for a shutdown to disrupt import shipments of pesticides.

Unfortunately, not all electronically submitted NOAs are processed without the intervention of EPA regional personnel. The ACE system relies on human intervention for some import actions, including the following import actions, which raise flags and require some degree of oversight and approval by an EPA employee:

- Products that are currently stored in or are imported into free trade zones.
- Products moving via interplant transfers.
- R&D test materials distributed without an Experimental Use Permit.

We have conferred with several pesticide importers, and they have confirmed that they have not experienced disruption or delays when using the ACE portal for registered pesticides during the current shutdown. They have indicated, however, some greater-than-normal delay when using ACE for the importation of non-registered products.

Any delay this time of year, when companies are beginning to import agricultural pesticides (including plant-incorporated protectants) for use in the spring, could be very disruptive. To avoid delays in EPA's processing of NOA's during the shutdown, use of the ACE portal is key, though the registration or exemption status of the pesticide will also play a role. Information on the use of the ACE system is available at [Tips for filing an EPA Pesticides via ACE PGA Message Set](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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