



The Bottom Line

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UPDATE ON EXPORTS OF PPE

Summary

The Federal Emergency Management Agency (FEMA) on May 19 updated its list of restricted medical supplies and equipment for export in the ongoing battle against the coronavirus pandemic.

Background

On April 10, 2020, the Federal Emergency Management Agency published a directive halting the export of five types of personal protective equipment (PPE) from the United States without explicit approval. The directive was authorized by the President under the Defense Production Act (50 U.S.C 4511(a)) which gives him the authority to allocate materials, services, and facilities as he shall deem necessary or appropriate to promote the national defense. Exports of these materials was permitted only with explicit approval by FEMA. In August of 2020, the list of products covered by this export ban was modified. The revised list added surgical and isolation gowns, which were not part of the initial order. In December of 2020, the list of products was expanded again, to include specific syringes and hypodermic needles as expanding rates of vaccinations led to short supply.

Current Status

FEMA is now modifying the export ban to reflect current domestic supply needs of medical resources to promote the national defense. The temporary final rule, as modified, will remain in effect until June 30, 2021.

The following items are no longer restricted from export under the FEMA's Temporary Final Rule (TFR):

- Industrial N95 Respirators, including devices that are currently NIOSH approved for use in healthcare settings.
- PPE Surgical Masks, including masks that cover the user's nose and mouth providing a physical barrier to fluids and particulates.
- Piston syringes that allow for the controlled and precise flow of liquids.

- Hypodermic single lumen needles that have engineered sharps injury protections.

The following items are still subject to the FEMA export ban:

- Surgical N95 Respirators
- Nitrile gloves and exam gloves
- Surgical Gowns and Surgical Isolation Gowns

Impact

Due to an increase in vaccinations, confirmed COVID-19 cases and hospitalizations have been falling, and domestic supply of the allocated PPE has kept pace with demand. Before any shipments of such covered materials may leave the United States, U.S. Customs and Border Protection (CBP) will continue to detain the shipment temporarily, during which time FEMA will determine whether to return for domestic use, issue a rated order for, or allow the export of part or all of the shipment.

RESOURCES

[Notice of Product Exclusion Extensions and Additional Modifications](#) (Federal Register)

[Prioritization and Allocation of Certain Scarce and Critical Health and Medical Resources for Domestic Use](#) (Federal Register)

[Export Allocation Rule on Medical Supplies and Equipment for COVID-19](#) (FEMA)