



The Bottom Line

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IMPORTS AND EXPORTS OF PPE

Summary

On December 31, both the exemptions to punitive China tariffs on imports of personal protective equipment (PPE) and the Federal Emergency Management Agency (FEMA) export ban were scheduled to expire. Both have been expanded and renewed temporarily.

Background

In August 2017, long-standing concerns over China's policies on intellectual property, subsidies, technology, and innovation led the U.S. Trade Representative (USTR) to launch an investigation—under Section 301—into those policies and their impact on U.S. stakeholders. Eventually, the United States imposed additional tariffs of up to 25% in four phases on certain U.S. imports from China. For each tranche, the USTR established a process by which U.S. stakeholders could request the exclusion of specific products subject to the action and, later, could request the extension of expiring exclusions.

In April 2020, the Federal Emergency Management Agency (FEMA) issued a temporary final rule to allocate certain health and medical resources for domestic use, so that these resources may not be exported from the United States without explicit approval by FEMA. In August, the list of products covered by this export ban was modified ([The Bottom Line: VOL. 51](#)).

Current Status

On March 25, 2020, to reflect developments in the efforts to respond to COVID-19, the U.S. Trade Representative requested public comments on possible further modifications to remove Section 301 duties from additional medical-care products to address the COVID-19 outbreak. In response to those comments, the agency has prioritized the review of exclusion requests

concerning medical products, resulting in 19 new exclusions and extensions of 80 existing exclusions for personal protective equipment (PPE) in short supply. Exclusions for all other commodities were allowed to expire December 31.

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

In addition to the Surgical N95 Filtering Facepiece Respirators, surgical masks (that provide a physical barrier to fluids and particulate materials), nitrile gloves, and Level 3 and 4 Surgical Gowns and Surgical Isolation Gowns under the ban since August, FEMA is adding designations for specific syringes and hypodermic needles to the covered materials list. The exemptions to the ban published in the April rule remain in effect ([The Bottom Line: VOL. 36](#)).

Impact

In light of the rising spread and ongoing efforts to combat COVID-19, the U.S. Trade Representative has determined that maintaining or reimposing additional duties on certain medical products is not appropriate and that doing so could impact U.S. preparedness to address COVID-19.

Due to a surge in confirmed COVID-19 cases and hospitalizations in October, November, and December 2020, domestic supply of the allocated PPE has not kept pace with demand and is not anticipated to do so. 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](#) (Federal Register)
[Prioritization of Critical Health Resources](#) (Federal Register)