

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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EXECUTIVE VICE PRESIDENT &
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April 9, 2020

The Honorable Chad F. Wolf
Acting Secretary
Department of Homeland Security
Washington, DC 20528

Dear Acting Secretary Wolf:

On behalf of the U.S. Chamber of Commerce, I am writing to request that the Federal Emergency Management Agency (FEMA) provide clarifications on several key issues prior to enforcement of the temporary rule “Prioritization and Allocation of Certain Scarce or Threatened Health and Medical Resources for Domestic Use.” The Chamber shares the administration’s goal of ensuring an adequate domestic supply of personal protective equipment (PPE) and believes that certain clarifications will assist in advancing that objective.

As you know, PPE use is indispensable to a variety of manufacturing, agri-food, and other business operations in addition to healthcare. Businesses manufacture healthcare products and other goods necessary for pandemic response and other essential economic functions drawing on assets and workers based in multiple facilities located inside and outside the United States. In many cases, these firms are using PPE that is not manufactured in the United States but that may be distributed through intra-firm networks that pass through the United States. Based on feedback from many of our members who manufacture products important to America’s pandemic response, we are concerned that, without clarification, the proposed restrictions on the transfer of PPE could inadvertently harm the production of other critical goods essential to fighting the coronavirus here at home.

To ensure that these businesses are able to continue their vital pandemic-response operations, we urge FEMA to take the following three steps:

- 1. Create an exception for intra-company transfers:** As noted above, many U.S. manufacturers need to ship limited quantities of PPE — often acquired from abroad — between facilities in the United States and facilities abroad in order to maintain the operation of international production chains manufacturing critically-needed goods. These relatively small quantities of product are vital to the production of food, pharmaceuticals, and other

products essential to pandemic response and essential services. The Chamber urges the creation of an exception for intra-company transfers.

- 2. Establish a process to give firms certainty about exports before Customs and Border Protection (CBP) detention of goods at the border:** The FRN indicates CBP will detain all shipments of the covered materials and will notify FEMA of the intended exportation. While each shipment is in CBP custody, FEMA will determine whether to allow the exportation of the shipment or whether to issue an order for the goods under the Defense Production Act. We urge FEMA to establish a time-bound (e.g., 72 hour), expedited process that will allow businesses to ascertain whether exports will be permitted before shipping and seizure of the goods in question. Ideally, this process would feature an online application allowing for advance approval based on shipper and recipient as opposed to requiring shipment-by-shipment approval.

- 3. Clarify the process through which FEMA will determine which, if any, additional products are subjected to export restrictions:** Our members are concerned that additional products will be included on short notice and are keen to understand any future plans. In addition, the Chamber urges that FEMA take time to consult with affected industries before these rules are applied to any additional products.

Thank you for your leadership during this difficult time. The Chamber looks forward to continuing to work with you to help our nation as we confront this challenge together.

Sincerely,



Neil L. Bradley

Cc: The Honorable Peter T. Gaynor, Administrator, Federal Emergency Management Agency

Mark A. Morgan, Acting Commissioner, U.S. Customs and Border Protection