



Trump Fleshes Out Export Restrictions On Medical Equipment

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April 8, 2020

The Trump administration late Tuesday issued new restrictions on exports of safety masks and gloves to combat the novel coronavirus outbreak, marking its latest use of the Defense Production Act of 1950 to exert control over the medical supply chain.

Following up on a memorandum handed down by President Donald Trump last weekend, the government published a temporary final rule that bars the export of N95 masks, gloves and other items without explicit approval from the Federal Emergency Management Agency for at least four months.

“Under this temporary rule, before any shipments of such covered materials may leave the United States, [Customs and Border Protection] will 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,” FEMA wrote in a Federal Register notice.

The rule was issued in the wake of a public dust-up between the White House and manufacturer 3M Co., which said it had been ordered to stop shipping medical grade masks to Canada during the pandemic.

Trump announced a truce with the company on Monday, saying he had arranged a deal for 3M to import 166.5 million masks to the U.S. over the next three months from its facility in China while continuing to send U.S.-produced masks to Canada and Latin America.

But the new rule requiring government approval of masks and gloves came down late Tuesday and is slated to be published in Friday’s Federal Register. In a statement that preceded the rule, the White House said it was only looking to restrict exports in cases where “profiteers” are looking to exploit the scarcity of resources.

“Today’s order is another step in our ongoing fight to prevent hoarding, price gouging, and profiteering by preventing the harmful export of critically needed PPE,” the White House said. “It will help ensure that needed PPE is kept in our country and gets to where it is needed to defeat the virus.”

In the rule, FEMA said it would look to implement the rule as smoothly as possible, pledging to “work to review and make determinations quickly and will endeavor to minimize disruptions to

the supply chain.” It also added it will consider several security, commercial and diplomatic factors when deciding whether to authorize the exports.

It remains to be seen how aggressively FEMA will use the rule to restrict trade, Cato Institute trade expert Simon Lester wrote Wednesday, calling for a steady hand.

"The key is to talk to other governments about what you are doing," Lester wrote. "The exercise shouldn't be a purely unilateral one. The instruction in the rule to take into account 'international relations and diplomatic considerations' should serve as the basis for cooperating with other countries in the implementation of this rule.”

The U.S. is just the latest country to impose some measure of export restrictions on sensitive medical equipment during the outbreak. Most notably, the EU implemented a similar government-approval system last month.

World leaders have generally promised to keep critical trade channels open as they battle the pandemic, but have allowed room for certain emergency restrictions to take hold. A G-20 leaders' statement issued last month stipulated that any trade restrictions imposed during the outbreak should be “targeted, proportionate, transparent, and temporary.”