

Executive Order 13911—Delegating Additional Authority Under the Defense Production Act of 1950 With Respect to Health and Medical Resources To Respond to the Spread of COVID–19

March 27, 2020

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Defense Production Act of 1950, as amended (50 U.S.C. 4501 *et seq.*) (the "Act"), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. Policy. In Proclamation 9994 of March 13, 2020 (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak), I declared a national emergency recognizing the threat that the novel (new) coronavirus known as SARS–CoV–2 poses to our Nation's healthcare systems. In recognizing the public health risk, I noted that on March 11, 2020, the World Health Organization announced that the outbreak of COVID–19 (the disease caused by SARS–CoV–2) can be characterized as a pandemic. I also noted that while the Federal Government, along with State and local governments, have taken preventive and proactive measures to slow the spread of the virus and to treat those affected, the spread of COVID–19 within our Nation's communities threatens to strain our Nation's healthcare systems.

To deal with this threat, on March 18, 2020, I issued Executive Order 13909 (Prioritizing and Allocating Health and Medical Resources to Respond to the Spread of COVID–19), in which I delegated to the Secretary of Health and Human Services the prioritization and allocation authority under section 101 of the Act with respect to health and medical resources needed to respond to the spread of COVID–19. And on March 23, 2020, I issued Executive Order 13910 (Preventing Hoarding of Health and Medical Resources to Respond to the Spread of COVID–19), in which I delegated to the Secretary of Health and Human Services the authority under section 102 of the Act to combat hoarding and price gouging with respect to such resources.

To ensure that our healthcare systems are able to surge capacity and capability to respond to the spread of COVID–19, it is the policy of the United States to expand domestic production of health and medical resources needed to respond to the spread of COVID–19, including personal protective equipment and ventilators. Accordingly, I am delegating authority under title III of the Act to guarantee loans by private institutions, make loans, make provision for purchases and commitments to purchase, and take additional actions to create, maintain, protect, expand, and restore domestic industrial base capabilities to produce such resources. To enable greater cooperation among private businesses in expanding production of and distributing such resources, I am also delegating my authority under section 708(c) and (d) of the Act (50 U.S.C. 4558(c), (d)) to provide for the making of voluntary agreements and plans of action by the private sector.

Sec. 2. Delegation of Authority Under Title III of the Act. (a) Notwithstanding Executive Order 13603 of March 16, 2012 (National Defense Resources Preparedness), the Secretary of Health and Human Services and the Secretary of Homeland Security are each delegated, with respect to responding to the spread of COVID–19 within the United States, the authority of the President conferred by sections 301, 302, and 303 of the Act (50 U.S.C. 4531, 4532, and 4533), and the authority to implement the Act in subchapter III of chapter 55 of title 50, United States Code (50 U.S.C. 4554, 4555, 4556, and 4560).

(b) The Secretary of Health and Human Services and the Secretary of Homeland Security may each use the authority under sections 301, 302, and 303 of the Act, in consultation with the

Secretary of Defense and the heads of other executive departments and agencies as he deems appropriate, to respond to the spread of COVID–19.

(c) To provide additional authority to respond to the national emergency I declared in Proclamation 9994, the requirements of section 301(a)(2), section 301(d)(1)(A), and section 303(a)(1) through (a)(6) of the Act are waived during the period of that national emergency.

(d) To provide additional authority to respond to the national emergency I declared in Proclamation 9994, the Secretary of Health and Human Services and the Secretary of Homeland Security are each authorized to submit for my approval under section 302(d)(2)(B) of the Act a proposed determination that any specific loan is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.

(e) Before exercising the authority delegated under this section with respect to health or medical resources, the Secretary of Homeland Security shall consult with the Secretary of Health and Human Services.

Sec. 3. Delegation of Authority Under Title VII of the Act. (a) Notwithstanding Executive Order 13603, the Secretary of Health and Human Services and the Secretary of Homeland Security are each delegated, with respect to responding to the spread of COVID–19 within the United States, the authority of the President conferred by section 708(c)(1) and (d) of the Act. The Secretary of Health and Human Services shall provide to the Secretary of Homeland Security notice of any use of such delegated authority.

(b) The delegation made in this section is made upon the condition that the Secretary of Health and Human Services or the Secretary of Homeland Security consult with the Attorney General and with the Federal Trade Commission, and obtain the prior approval of the Attorney General, after consultation by the Attorney General with the Federal Trade Commission, as required by section 708(c)(2) of the Act, except when such consultation is waived under subsection (c) of section 3 of this order and section 708(c)(3) of the Act.

(c) The Secretary of Health and Human Services and the Secretary of Homeland Security are each authorized to submit for my approval under section 708(c)(3) of the Act any proposed determination that any specific voluntary agreement or plan of action is necessary to meet national defense requirements resulting from an event that degrades or destroys critical infrastructure.

(d) Before exercising the authority delegated under this section with respect to health or medical resources, the Secretary of Homeland Security shall consult with the Secretary of Health and Human Services.

Sec. 4. Additional Delegations. (a) Notwithstanding Executive Order 13603, the Secretary of Health and Human Services and the Secretary of Homeland Security are each delegated, with respect to responding to the spread of COVID–19 within the United States, the authority of the President conferred by section 107 of the Act (50 U.S.C. 4517).

(b) In addition to the delegations of authority in Executive Order 13909 and Executive Order 13910, the authority of the President conferred by sections 101 and 102 of the Act (50 U.S.C. 4511, 4512) is delegated to the Secretary of Homeland Security with respect to health and medical resources needed to respond to the spread of COVID–19 within the United States.

(c) The Secretary of Homeland Security may use the authority under section 101 of the Act to determine, in consultation with the heads of other executive departments and agencies as appropriate, the proper nationwide priorities and allocation of health and medical resources, including by controlling the distribution of such materials (including applicable services) in the civilian market, for responding to the spread of COVID–19 within the United States.

(d) Before exercising the authority under section 102 of the Act, the Secretary of Homeland Security shall consult with the Secretary of Health and Human Services.

(e) The Secretary of Homeland Security shall periodically consider whether the designations made by him under section 102 of the Act pursuant to section 4(b) of this order remain necessary. Upon finding that such designation of material is no longer necessary, the Secretary of Homeland Security shall promptly publish a notice of withdrawal of the designation in the *Federal Register*, and in such other manner as he deems appropriate.

Sec. 5. Implementing Rules and Regulations. The Secretary of Health and Human Services and the Secretary of Homeland Security shall each adopt and revise appropriate rules and regulations as may be necessary to implement this order.

Sec. 6. Policy Coordination. The Assistant to the President for Trade and Manufacturing Policy shall serve as National Defense Production Act Policy Coordinator.

Sec. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

The White House,
March 27, 2020.

[Filed with the Office of the Federal Register, 11:15 am, March 31, 2020]

NOTE: This Executive order was published in the *Federal Register* on April 1.

Categories: Executive Orders : COVID–19 response efforts, Defense Production Act of 1950 use with respect to health and medical resources, delegation of additional authority.

Subjects: Defense Production Act of 1950, executive authorities; Diseases : Coronavirus, domestic prevention efforts; Health and medical care : Medical equipment and supplies.

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