

April 13, 2021

VIA ELECTRONIC DELIVERY

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Mayorkas:

I write to commend the Biden administration for its strategic use of Defense Production Act (DPA) authorities to swiftly bolster our Nation's personal protective equipment (PPE) manufacturing capabilities and supply levels.

I also write to request that you direct the Federal Emergency Management Agency (FEMA) to take additional action – pursuant to DPA Title VII authorities – to make sure organizations that could better protect personnel by distributing National Institute for Occupational Safety and Health-approved N95 particulate filtering facepiece respirators (NIOSH-approved N95 respirators) are made aware of, and connected with, domestic manufacturers of American-made, NIOSH-approved N95 respirators.

Many domestic manufacturers of NIOSH-approved N95 respirators have slowed production due to a lack of demand. These American businesses answered the call to boost production of this valuable PPE, yet now find themselves slowing production and sitting on stockpiles of NIOSH-approved N95 respirators that are in warehouses protecting no American. This status quo is unacceptable. As new coronavirus disease 2019 (COVID-19) variants emerge and infection rates rise in certain communities, it is absurd that American manufacturers capable of producing NIOSH-approved N95 respirators are being forced to slow production because of a lack of demand for American-made, NIOSH-approved N95 respirators.

This situation is particularly frustrating in light of the Trump administration establishing a Committee for the Distribution of Healthcare Resources Necessary to Respond to the Pandemic and asserting that this public-private interagency entity was prioritizing implementation of a "Plan of Action" to establish a national strategy to manufacture, allocate and distribute PPE. Unfortunately, the Trump administration conducted much of this work out of the public view, and to date, the specifics of this plan of action and the prior administration's implementation efforts remain undisclosed to the American people.

Real world results demonstrate that the Trump administration's Plan of Action to implement a national strategy for PPE fell short. Reports that domestic manufacturers are experiencing low demand for American-made NIOSH-approved N95 respirators are surprising in light of other public reports indicating that healthcare providers are not providing employees with sufficient NIOSH-approved N95 respirators to enable single-use.

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For example, one National Nurses United (NNU) survey of 9,200 registered nurses conducted in February 2021 found that 81 percent of respondents reported being forced to reuse single-use PPE – a figure that was nearly unchanged from NNU’s November 2020 survey – which as NNU observed, is incongruous with recent reports indicating “there is substantial N95 supply.”

Moving forward, the Federal Government should take additional action to connect domestic manufacturers of NIOSH-approved N95 respirators with potential customers that could use such PPE to better protect employees. With passage of the American Rescue Plan, FEMA has an opportunity to finally implement a national strategy that provides healthcare providers and frontline workers with robust supplies of NIOSH-approved N95 respirators.

In light of the enactment of the American Rescue Plan, along with the Biden administration’s commitment to exercise authorities under Title VII of the DPA, I request that FEMA:

- Provide a status update on implementation of the Plan of Action;
- Work with the Centers for Disease Control and Prevention to examine a joint initiative to distribute NIOSH-approved N95 respirators to entities that employ individuals who have yet to be vaccinated but are exposed to higher infection risks in indoor professional environments, such as educators, school personnel, retail employees, hospitality workers and many more individuals who would benefit from using NIOSH-approved N95 respirators instead of cloth face masks; and
- Conduct a review to identify and implement additional initiatives that enhance the distribution of NIOSH-approved N95 respirators and promote public sector and private sector procurement of NIOSH-approved N95 respirators manufactured in the United States.

I am confident that with the correct national strategy, we can strengthen public health, support small- and mid-size businesses and advance “Buy American” principles.

Thank you in advance for your consideration of my request. I look forward to working with you to make progress on our shared goals of boosting American manufacturing while better protecting the American people in the midst of a deadly pandemic.

Sincerely,



Tammy Duckworth
United States Senator