

EVERYONE BUT US

The Trump Administration and Medical Supply Exports

Report by the Office of Congresswoman Katie Porter (CA-45)
April 6, 2020

Summary

Using previously unreported data, this report documents how President Trump has misapplied the Defense Production Act and mismanaged our nation's supply of personal protective equipment and ventilators by exporting needed medical equipment in the face of the threat of COVID-19. The result is an American people who face the apex of this pandemic without life-saving medical equipment.

I have repeatedly urged President Trump to use his authority under the Defense Production Act (DPA) to ensure adequate supplies of Personal Protective Equipment (PPE) and ventilators for health care providers.¹ The DPA exists for exactly the kind of situation we are currently experiencing, when an organized response from industry is vital for national security. The DPA provides a range of authorities, including the ability to compel manufacturers to take government contracts and to make guaranteed loans to businesses so they can expand production.² If used promptly and correctly, this authority would have allowed President Trump to ensure adequate supplies of medical resources to combat the 2019 novel coronavirus (COVID-19). The pleas of doctors and nurses from around the country for medical equipment and protective gear make it clear that President Trump has failed—to date—to use the DPA to protect us in this pandemic.

President Trump also has mishandled our existing supplies of medical supplies. Our review of previously unreported government trade data indicates that the value of U.S. ventilator exports jumped 22.7% percent from January to February.³ We also found that in February 2020, the value of U.S. mask exports to China was 1094% higher than the 2019 monthly average. Our findings correspond to documents revealed by Congressman Lloyd Doggett, showing that as recently as March 2, the Trump Administration was encouraging American businesses to increase exports of medical

¹ Letter from 57 House Democrats to President Trump Urging Use of the Defense Production Act, March 13, 2020. <https://andylevin.house.gov/media/press-releases/57-house-members-urge-president-invoke-defense-production-act-authority>

² “The Defense Production Act of 1950: History, Authorities, and Considerations for Congress,” Congressional Research Service, Updated March 2, 2020. Retrieved at: <https://crsreports.congress.gov/product/pdf/R/R43767>

³ The Harmonized Commodity Description and Coding System (HS) is an international nomenclature for the classification of commodities. HS Code 6307 includes N95 respirators and other similar facemasks. Code 91920 includes products for oxygen therapy, artificial respiration, and or other therapeutic respiration apparatus. Data on U.S. imports and exports, categorized by HS Code, is available at <https://usatrade.census.gov/index.php>. Trade statistics for March are scheduled to be released on May 5, 2020.

supplies, especially to China.⁴ Yet, during this period, the U.S. government was well aware of the harms of COVID-19, including a likely need for additional respirators and masks.

The import data that we identified and reviewed also reveal that the Trump Administration failed to prepare for COVID-19 and to protect the health of Americans. From January to February, when the U.S. should have been stockpiling medical supplies, the value of ventilator imports dropped by more than 10 percent. The data shows a similar pattern with PPE and cleaning supplies, which fell by 11.3%, over \$161 million, from January to February 2020, and N95 masks in particular, which fell by 14.2%.

Just this past Friday, the President said he would use the DPA to block the export of these supplies, but he has—to put it charitably—been inconsistent with his statements about his use of the DPA during this crisis. Secretary of Health and Human Services (HHS) Alex Azar declared a public health emergency on January 31, but it wasn't until six weeks later, on March 13, that President Trump declared a national emergency, which is required to unlock the powers of the DPA. Trump then waited until March 25—yet another week of delay (and more poignantly, an additional 675 deaths) after his initial emergency declaration—to issue Executive Order 13910, allowing Secretary Azar to designate key supplies as "scarce."⁵ Two more days passed before the Administration claimed it was issuing its first order under the DPA, to General Motors to make ventilators. However, as of April 2—three weeks and 5,600 deaths after the initial emergency declaration—no such order had been issued.⁶ At this point, the public has lost trust in the Trump Administration's claims about the steps they are taking to ensure access to medical supplies, including limits on exports.

Congress must do everything in its power to hold President Trump and his administration accountable for their incompetence and callousness in protecting American lives during this pandemic. I have introduced legislation to require the administration to use the DPA, pushed HHS to finalize key DPA regulations, and called for all DPA orders to be made public. I have asked Speaker Pelosi to serve the American

⁴ "Stocks Surge as Central Banks Vow to Act on Coronavirus," New York Times, March 2, 2020. Retrieved at: <https://www.nytimes.com/2020/03/02/business/stock-market-today.html>

⁵ Executive Order 13910, "Preventing Hoarding of Health and Medical Resources To Respond to the Spread of COVID-19," March 23, 2020. Retrieved at: <https://www.federalregister.gov/documents/2020/03/26/2020-06478/preventing-hoarding-of-health-and-medical-resources-to-respond-to-the-spread-of-covid-19>

⁶ "Trump hasn't ordered any ventilators from GM, despite saying he was using wartime powers to force production," by John Fritze and Jayne O'Donnell, USA TODAY, April 3, 2020. Retrieved at: <https://www.usatoday.com/story/news/politics/2020/04/02/coronavirus-trump-said-force-gm-build-ventilators-he-hasnt/5100856002/>

public on the Congressional Oversight Commission or Select Committee to provide vigorous and accessible oversight into the Administration's next actions—or inactions.

My office has responded to 6,132 constituent questions about COVID-19 and continues to receive hundreds of inquiries per day about how to get unemployment insurance, where to donate medical supplies, why small business loan portals are unavailable, and other urgent questions. The most painful questions are those about the lack of personal protective equipment, ventilators, and necessary medications because those questions require speaking the painful truth: our President failed to take COVID-19 seriously until it was too late. Our nation exported lifesaving equipment, failed to harness our manufacturing prowess, and woefully underestimated the need to import additional supplies.

I fear that it will be too late for many Americans who will fall gravely ill and for all our frontline workers who battle this pandemic without necessary equipment. Together, we must bridge divisions, learn from these mistakes, impose consequences for irresponsible government conduct, and pray for our fellow Americans who will suffer from COVID-19.

Very Truly Yours,



Katie Porter
MEMBER OF CONGRESS



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Federal Trade Data

My review of U.S. Department of Commerce data shows a dramatic decline in U.S. imports of masks and ventilators between January and February of early 2020, as well as a significant increase in exports. These were my key findings:

Imports

- The value of mask imports fell 14.2%, from \$352,370,477 to \$302,580,146.
- The value of ventilator imports fell 10.8%, from \$223,892,835 to \$200,872,388.
- The overall value of these imports fell 12.7%, from \$576,263,312 to \$503,352,534.

Exports

- The value of mask exports jumped 21.2%, from \$67,695,307 to \$83,725,740.
- The value of ventilator exports jumped 22.7%, from \$88,111,071 to \$110,619,536.
- The overall value of these exports jumped 22.0%, from \$155,806,378 to \$194,345,276.

Fig 1. Total Imports and Exports of Masks for January and February, 2020.

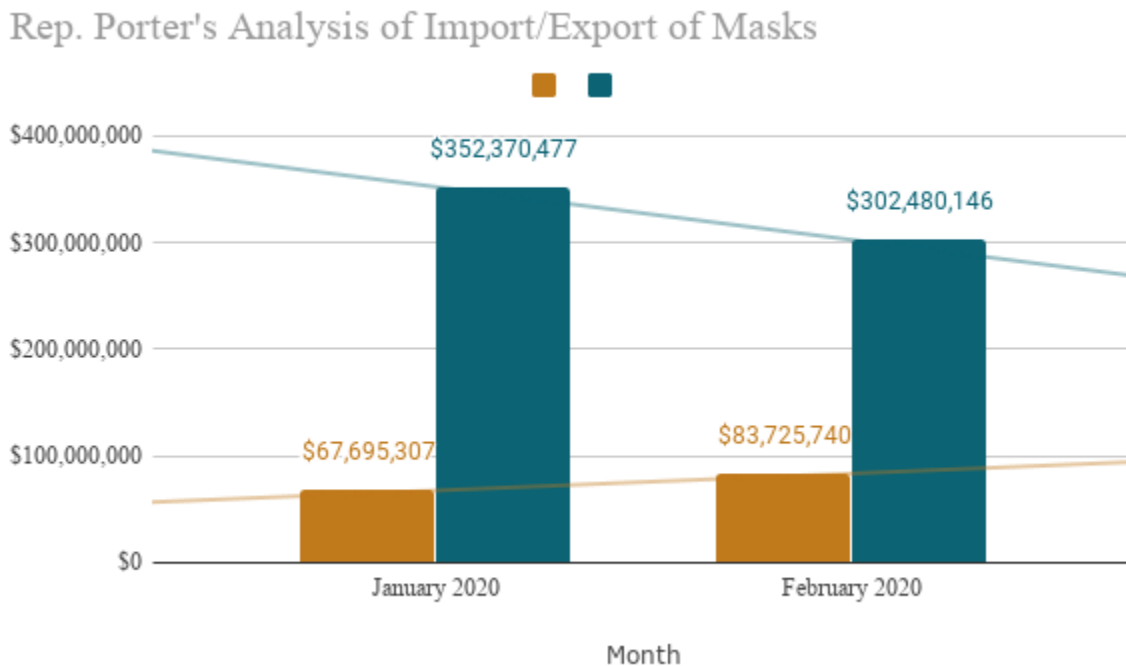
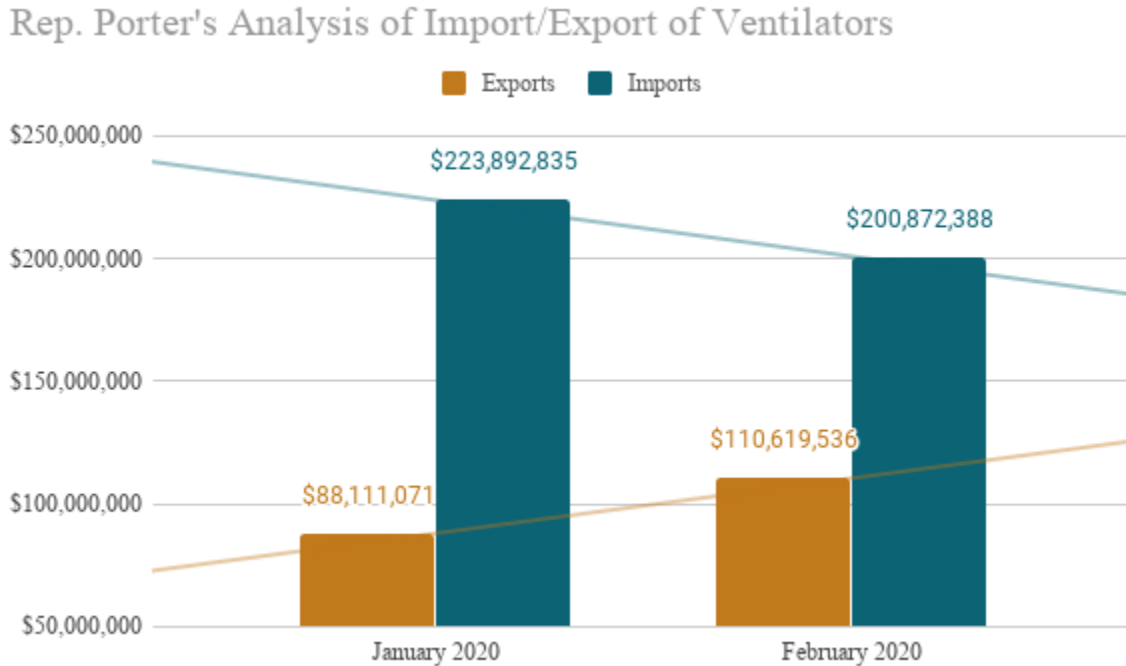


Fig. 2. Total Imports and Exports of Ventilators for January and February, 2020.



My review of the data also shows mask and ventilator exports to China increased exponentially in early 2020, when the U.S. should have been preparing for the Coronavirus.

- In February 2020, the value of U.S. mask exports to China was **1094.0% higher than the 2019 monthly average.**
- In February 2020, the value of U.S ventilator exports to China was **292.2% higher than the 2019 monthly average.**

This increase was not only driven by Chinese demand, but Trump administration policies. As *The New York Times* reported on March 2, “the Commerce Department advertised a change in Chinese regulations that would temporarily make it easier for American businesses to export medical products that are useful in battling the coronavirus to China, including protective gear, hand sanitizers and mask manufacturing machines.”⁷ Whether export numbers reflect increased per-unit costs for Chinese buyers, or an increase in units sold, the bottom line is the same: a payday for a few companies, and huge costs for the rest of us.

⁷ *The New York Times*, as cited.

Fig. 3. Month-to-Month U.S. Exports of Masks to China

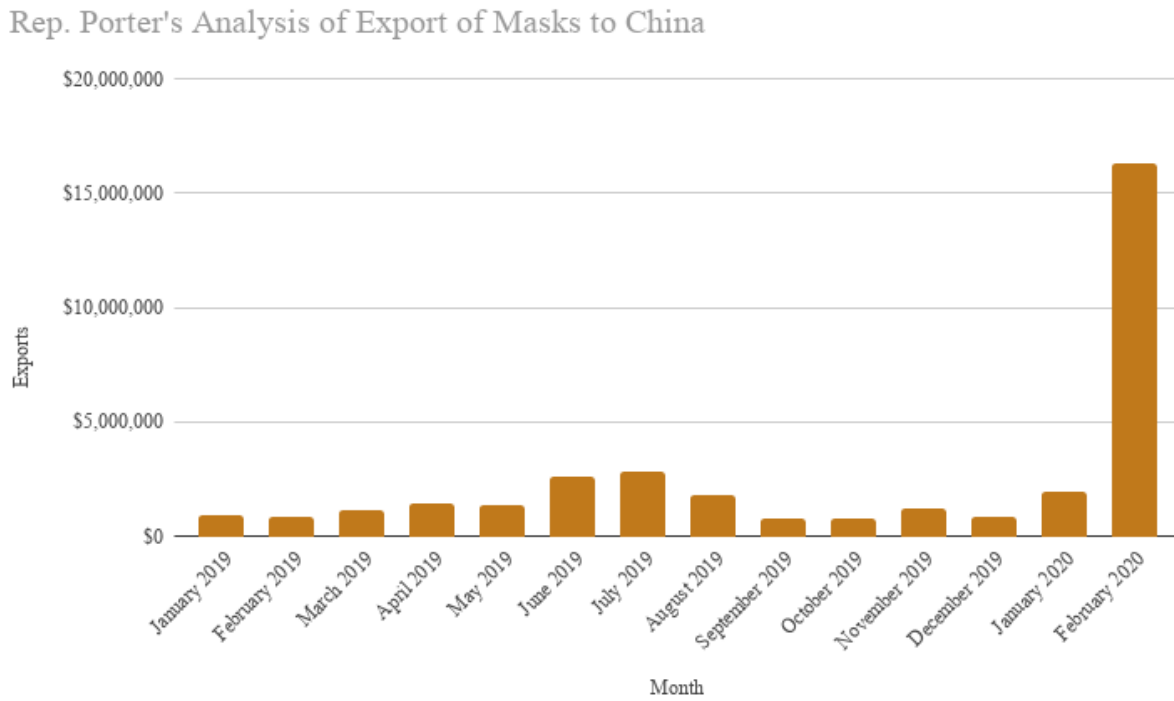
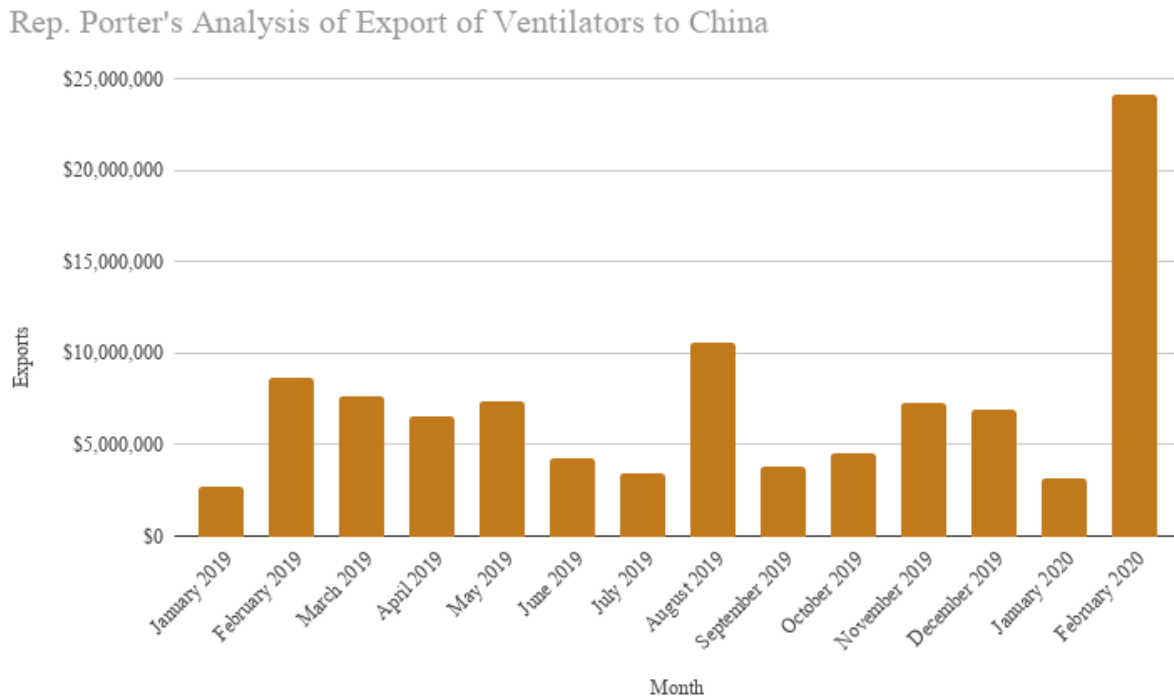


Fig. 4. Month-to-Month U.S. Exports of Ventilators to China



To compile this information, my office consulted the Commerce Department Schedule B Search Engine, which identifies the Harmonized Commodity Description and Coding System (HS) codes associated with different commodities. We then referenced these codes against U.S. export and import data for January and February, 2020.⁸ We also referenced World Trade Organization information on HS Codes for PPE.⁹

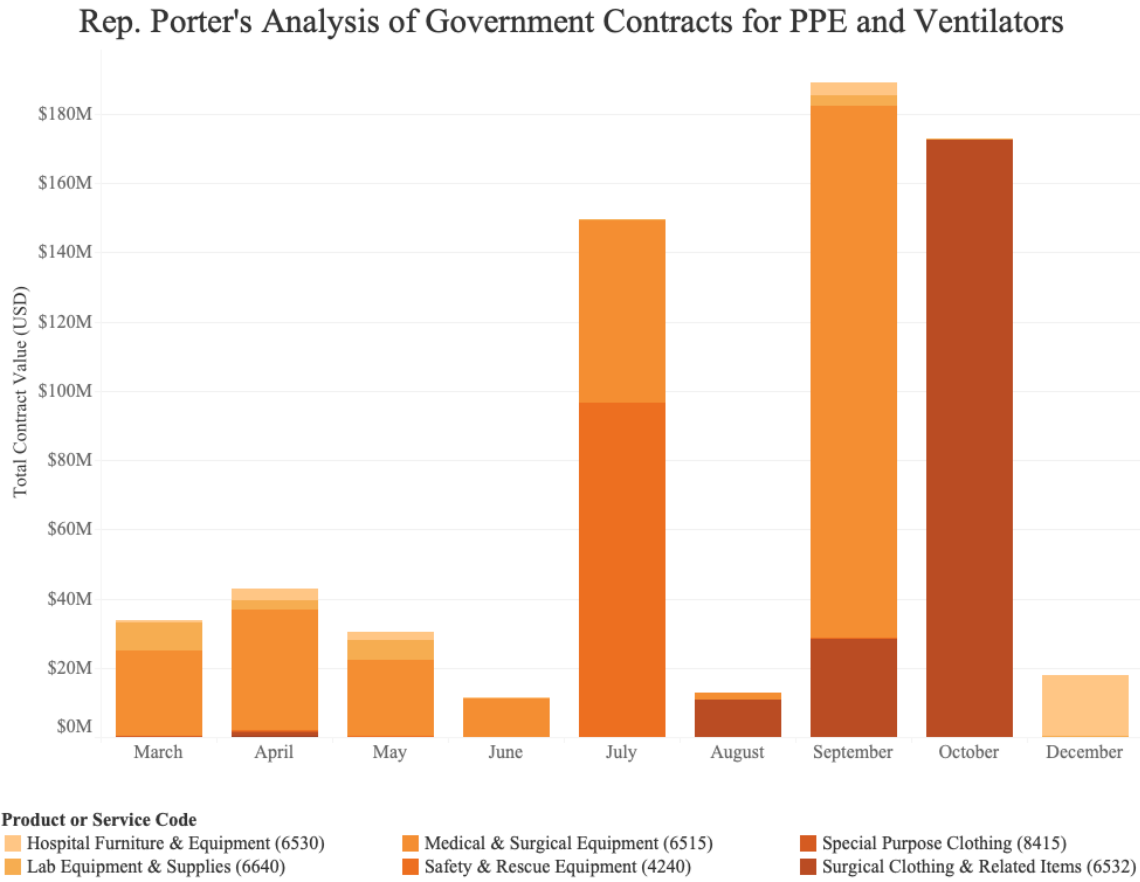
⁸ HS codes 6307 and 91920 do include some commodities not directly related to the Coronavirus pandemic, but they are the codes indicated for key items by the official Commerce Department Schedule B Search Engine.

⁹ “Memo on Trade in Medical Goods in the Context of Tackling COVID-19,” April 3, 2020. Retrieved at: https://www.wto.org/english/news_e/news20_e/rese_03apr20_e.pdf

Federal Contracting Data

My review of available General Services Administration (GSA) data shows that virtually all federal contracts for ventilators, and critical PPE such as N95 masks, are not expected to be completed until long after Coronavirus infections peak, estimated to occur around April 14.^{10, 11}

Fig. 5 Estimated Completion Dates for COVID-19 Contracts by Dollar Value



¹⁰ As of April 2, 2020 at 8:00 AM EST, there were 1,480 COVID-19 related contracts listed in FPDS's COVID-19 Report, 147 of which appeared to be for PPE or ventilators. Almost all were associated with one of the six product codes in figure 5—codes 6510, 6515, 6530, 6532, 6640, or 8415.

¹¹ "COVID-19 projections assuming full social distancing through May 2020," Institute for Health Metrics and Evaluation, April 6, 2020. Retrieved at: <https://covid19.healthdata.org/projections>

My analysis is based on Federal Procurement Data System (FPDS) reports compiled by the GSA in accordance with instructions from the Office of Management and Budget.¹²,¹³ Although this is the best information currently available, there are two limitations to the data. First, orders can be delivered in-part before the ultimate completion date. Second, as the GSA notes, this is likely “a portion of the work that has been awarded to date. Many contracting offices supporting COVID-19 particularly those relocated to the disaster recovery area, do not have access to their normal contract writing systems and thus have not been able to populate FPDS-NG contemporaneously with the contract awards they have made. Others have not had time to enter data due to the tempo of operations.”¹⁴ Nonetheless, the data raises serious questions about the availability of medical supplies in the coming months.

The American people need clarity on where critical supplies are and when they will be arriving. President Trump pledged on March 27 that there would be 100,000 additional ventilators “within 100 days,” and that he would use the DPA to ensure delivery.¹⁵ However, documents obtained from the Federal Emergency Management Agency conclude that “most of the 100,000 ventilators promised by President Trump will not be available until late June at the earliest.”¹⁶ I am calling on President Trump and his administration to clear up the discrepancies between the supplies they have promised the American people, and the amount of supplies that publicly available data shows is on the way. If the Administration has further information to shed light on where supplies are, it should be shared with the public immediately.

¹² See appendix B.

¹³ On March 20, the Office of Management and Budget’s Deputy Director for Management Margaret M. Weichert sent a memorandum to the heads of executive departments and agencies regarding the management of federal contract performance issues associated with the novel coronavirus (COVID-19). Memorandum retrieved at: <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-18.pdf>

¹⁴ See appendix B.

¹⁵ *Associated Press*, as cited.

¹⁶ “New FEMA Documents Show Critical Shortages of Medical Supplies.” House Oversight and Reform Committee, April. 2 2020.

Looking Forward

President Trump has repeatedly used special national security powers to bully other countries and settle personal political grudges. But in the midst of a public health crisis estimated to take more American lives than the Vietnam War, he has hesitated to use the DPA and other powers available to him. This behavior is inexplicable; it will cost Americans lives; and it will prolong the pain and economic hardship experienced by many more.

The consequences of these failures do not stop at the water's edge. As the CEO of 3M recently noted, there are “significant humanitarian implications of ceasing respirator supplies” to foreign countries.¹⁷ This is undoubtedly true and could have been avoided had the Trump Administration had listened to the advice of national security and public health experts, responded to the Coronavirus with more urgency, and used the powers at its disposal to increase supplies.

In a letter with 57 other House Democrats last month, I wrote: “During World War II, our country adapted to the demands of the time to produce mass quantities of bombers, tanks, and many smaller items needed to save democracy and freedom in the world. We know what the demands of this time are, and we must act now to meet these demands.” America, the wealthiest nation on Earth, should have no trouble aiding others to fight COVID-19—but under President Trump, it appears there are supplies for everyone but us.

¹⁷ “3M response to Defense Production Act order,” Friday, April 3, 2020. Retrieved at: <https://news.3m.com/blog/3m-stories/3m-response-defense-production-act-order>

Appendix A - Department of Commerce Trade Data

Fig. 6. Schedule B Search Engine Results, N95 Masks

DESCRIBE YOUR PRODUCT Classify

Here is What We Know About Your Disposable Respirator

Assumed Characteristics >

Known Characteristics >

Schedule B Search Engine

Schedule B
Legal Notes

Please read all 10-digit descriptions to find the one that best matches your product

U.S. Census Bureau - Foreign Trade Schedule B (2020)

Chapter 63

CHAPTER 63 - OTHER MADE-UP TEXTILE ARTICLES; SETS; WORN CLOTHING AND WORN TEXTILE ARTICLES; RAGS

SCHEDULE B NUMBER	DESCRIPTION	UOM
63.07	<input type="checkbox"/> Other made-up articles, including dress patterns:	
6307.90	<input type="checkbox"/> - Other:	
6307.90.3000	-- Labels	kg
6307.90.4000	-- Cords and tassels	kg
6307.90.5000	-- Corset lacings, footwear lacings or similar lacings	kg
6307.90.6500	-- Surgical drapes	kg
6307.90.8910	-- Surgical towels	No.,kg
	<input type="checkbox"/> - National flags:	
6307.90.9995	-- Other	kg

Fig. 7. Schedule B Search Engine Results, Ventilators

DESCRIBE YOUR PRODUCT Ventilator Classify

Here Is What We Know About Your Artificial Respiration Apparatus
Not Your Item?

Assumed Characteristics >

Schedule B Search Engine

Schedule B Legal Notes

Please read all 10-digit descriptions to find the one that best matches your product

U.S. Census Bureau - Foreign Trade Schedule B (2020)
Chapter 90
CHAPTER 90 - OPTICAL, PHOTOGRAPHIC, CINEMATOGRAPHIC, MEASURING, CHECKING, PRECISION, MEDICAL OR SURGICAL INSTRUMENTS AND APPARATUS; PARTS AND ACCESSORIES THEREOF

SCHEDULE B NUMBER	DESCRIPTION	UOM
90.19	<input type="checkbox"/> Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof.	
9019.20.0000	- Ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof	No.

Fig. 8. Extracted Commerce Department Export Data, N95 Masks and Ventilators

Perspective

<https://usatrade.census.gov/data/Perspective60/View/disview.aspx>

N95s and Vent Exports Jan/Feb

Current date: 04/04/2020 5:10 PM (Eastern Daylight Time)

Country: World Total

Commodity	6307 Made-up Articles Of Textile Materials Nesoi		901920 Ozone,oxygen,etc Therapy, Respiration Apparatus,pt	
Time	January 2020	February 2020	January 2020	February 2020
Measures				
Value (\$US)	67,695,307	83,725,740	88,111,071	110,619,536

Fig. 9. WTO PPE HS Guide

Personal Protective Products

HS 2017	Short product description	ITA-E	Pharma	WCO
340111	Hand soap			
340130	Hand soap			
340220	Other cleaning products			
382499	Hand sanitizer			
392690	Face masks			
630790	Face masks			X
900490	Protective spectacles and visors			X
902000	Face masks			X

Fig. 10. Commerce Department PPE Import Data

PPE Imports Jan-Feb

Current date: 04/06/2020 6:30 PM (Eastern Daylight Time)
Country: World Total

Time	January 2019	February 2019	March 2019	April 2019
Measures	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)
Commodity				
340111 Soap & Oth Organic Surf Act Prod, Toilet Use, Bars	21,094,020	14,225,802	17,804,947	19,752,928
340130 Org. SufOact Prod For Washing Skin, Liq/crm, Retail	38,598,579	32,440,091	36,313,405	33,237,988
340220 Surface-active, Washing Etc Prep Etc, Retail Sale	47,747,243	43,627,675	43,005,521	41,344,595
382499 Products And Residuals Of Chemical Industry, Nesoi	183,252,792	186,854,687	207,044,852	204,343,885
392690 Articles Of Plastics, Nesoi	717,064,537	654,512,788	653,303,006	708,836,478
630790 Made-up Textile Articles, Nesoi	404,140,986	354,826,387	294,951,521	355,948,138
900490 Spectacles, Etc, Corrective, Protective, Nesoi	85,166,196	76,602,113	70,922,693	75,893,964
902000 Breathing Appliances & Gas Masks Nesoi; Parts Etc	21,566,019	19,940,313	22,109,595	19,421,874

PPE Imports Jan-Feb

Current date: 04/06/2020 6:30 PM (Eastern Daylight Time)
Country: World Total

Time	May 2019	June 2019	July 2019	August 2019
Measures	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)
Commodity				
340111 Soap & Oth Organic Surf Act Prod, Toilet Use, Bars	21,007,006	20,826,220	21,969,202	23,691,617
340130 Org. SufOact Prod For Washing Skin, Liq/crm, Retail	35,386,719	35,755,214	39,036,106	43,156,813
340220 Surface-active, Washing Etc Prep Etc, Retail Sale	44,352,403	43,569,912	46,985,373	40,850,877
382499 Products And Residuals Of Chemical Industry, Nesoi	204,229,063	201,682,159	220,017,118	201,822,279
392690 Articles Of Plastics, Nesoi	781,482,299	675,519,550	735,415,687	754,317,994
630790 Made-up Textile Articles, Nesoi	413,430,764	397,384,825	411,853,923	393,287,159
900490 Spectacles, Etc, Corrective, Protective, Nesoi	70,469,547	68,192,759	83,907,751	84,215,912
902000 Breathing Appliances & Gas Masks Nesoi; Parts Etc	20,568,012	23,311,049	22,804,317	21,450,850

PPE Imports Jan-Feb

Current date: 04/06/2020 6:30 PM (Eastern Daylight Time)
Country: World Total

Time	September 2019	October 2019	November 2019	December 2019
Measures	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)
Commodity				
340111 Soap & Oth Organic Surf Act Prod, Toilet Use, Bars	25,553,887	24,119,155	24,613,874	19,615,641
340130 Org. SufOact Prod For Washing Skin, Liq/crm, Retail	45,797,797	45,524,366	37,005,311	38,098,435
340220 Surface-active, Washing Etc Prep Etc, Retail Sale	42,880,028	46,027,533	40,976,467	42,000,464
382499 Products And Residuals Of Chemical Industry, Nesoi	207,178,273	189,549,119	193,711,328	189,684,155
392690 Articles Of Plastics, Nesoi	698,029,048	720,594,491	651,884,002	632,975,206
630790 Made-up Textile Articles, Nesoi	380,630,127	372,310,641	330,042,720	317,997,970
900490 Spectacles, Etc, Corrective, Protective, Nesoi	78,995,496	73,307,495	74,127,689	77,396,733
902000 Breathing Appliances & Gas Masks Nesoi; Parts Etc	17,973,393	20,616,749	20,742,986	18,708,191

PPE Imports Jan-Feb

Current date: 04/06/2020 6:30 PM (Eastern Daylight Time)
Country: World Total

Time	January 2020	February 2020
Measures	Customs Value (Gen) (\$US)	Customs Value (Gen) (\$US)
Commodity		
340111 Soap & Oth Organic Surf Act Prod, Toilet Use, Bars	20,278,452	18,371,272
340130 Org. SufOact Prod For Washing Skin, Liq/crm, Retail	40,589,387	40,470,085
340220 Surface-active, Washing Etc Prep Etc, Retail Sale	45,569,129	45,604,998
382499 Products And Residuals Of Chemical Industry, Nesoi	198,120,868	173,984,116
392690 Articles Of Plastics, Nesoi	670,080,552	600,690,608
630790 Made-up Textile Articles, Nesoi	352,370,477	302,480,146
900490 Spectacles, Etc, Corrective, Protective, Nesoi	86,333,320	69,833,599
902000 Breathing Appliances & Gas Masks Nesoi; Parts Etc	19,321,617	19,724,713

Appendix B - General Services Administration Contracting Data

Fig. 11. Federal Procurement Data System Reports Interface Showing COVID-19 Reports

The screenshot displays the 'Federal Procurement Data System - Next Generation' interface. The main content area is divided into several sections:

- Top Requests:** A sidebar on the right containing links to COVID-19 Report, Hurricane Sandy Report, Hurricane Michael Report, Hurricane Florence Report, Hurricane Harvey Report, Hurricane Maria Report, Hurricane Irma Report, and Other Hurricane/Disaster Relief.
- Federal Procurement Report:** A central section with a description of the report's use for geographical and market analysis. It includes a list of fiscal years from 1981 to 1999. A yellow arrow points to the 'Federal Procurement Report' title.
- Top 100 Contractors Report:** A section listing fiscal years from 2019 down to 2006, with some years marked as 'NEW'.
- Small Business Goaling Reports (FY 2005-2018):** A section listing fiscal years from 2018 down to 2005, with 2018 marked as 'NEW'.
- NIA/Other Static Reports:** A section at the bottom listing various reports, including COVID-19 Report, Gulf Oil Spill Report, Haiti Earthquake Report, Hurricane Dorian Report, Hurricane Earl Report, Hurricane Florence Report, Hurricane Harvey Report, Hurricane Irene Report, Hurricane Irma Report, Hurricane Katrina Report, Hurricane Maria Report, Hurricane Michael Report, Hurricane Rita Report, Hurricane Sandy Report, Other Hurricane/Disaster Relief, Oklahoma Tornado 2013 Report, Pacific Earthquake/Tsunami, Recovery Data (Recipient-Reported, Cumulative Summary), Recovery Data (Recipient-Reported, FY2013Q4), and Recovery Report. A yellow arrow points to the 'COVID-19 Report' link.

The interface includes a navigation menu at the top (Home, Newsroom, Reports, Status, Worksite, Archives, Training, Help) and a sidebar on the left with sections for Login, Registration, and FAQs. A footer contains logos for IAE, TSA.gov, E-GOV, and GSA, along with system requirements and a disclaimer.

