



Billing Code: 9111-19-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2020-0016]

Meeting to Develop Pandemic Response; Voluntary Agreement

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Announcement of meeting; request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will convene a meeting remotely via teleconference and web conference on May 21, 2020, to develop a voluntary agreement under Section 708 of the Defense Production Act to help provide for the national defense by maximizing the effectiveness of the distribution of critical medical resources nationwide to respond to pandemics in general, and COVID-19 specifically. The meeting will be open to the public. If necessary, a second meeting will take place on May 27, 2020.

DATES: The meeting will take place on Thursday, May 21, 2020, from 2:00 to 3:30 p.m. Eastern Time (ET). Written comments for consideration at the meeting must be submitted and received by 12 p.m. ET on Wednesday, May 20, 2020. To register to make remarks during the public comment period, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below by 12 p.m. ET on May 20, 2020.

If necessary, a second meeting will take place on Wednesday, May 27, 2020, from 2:00 to 3:30 p.m. ET.

ADDRESSES: The meeting(s) will be held via teleconference and web conference. It is recommended that attendees register with FEMA by 12:00 p.m. on May 20, 2020, by providing their name, telephone number, email address, title, and organization to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Reasonable accommodations are available for people with disabilities and others with access and functional needs. To request a reasonable accommodation, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered at the meeting. The “Meeting Objectives” section below outlines these issues. Written comments for consideration at the meeting on May 21 must be submitted and received by 12 p.m. ET on May 20, 2020, identified by Docket ID FEMA-2020-0016, and submitted by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. *Follow the instructions for submitting comments.*
- *Email:* Defense Production Act Division, FEMA, FEMA-DPA@fema.dhs.gov.

Instructions: All submissions must include the docket ID “FEMA-2020-0016.” Comments received, including any personal information provided, may be posted without alteration at <http://www.regulations.gov>.

Docket: For access to the docket to read comments received by the FEMA, go to <http://www.regulations.gov>, and search for Docket ID FEMA-2020-0016.

A public comment period will be held at the FEMA meeting on May 21, 2020, from 2:00 to 3:30 p.m. ET. All speakers must limit their comments to 3 minutes. Comments should be addressed to FEMA. Any comments not related to the Meeting Objectives topics will not be considered at the meeting, which will be chaired by FEMA. To register to make remarks during the public comment period, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below by 12:00 p.m. on May 20, 2020. If necessary, FEMA will limit the number of comments taken during the public meeting consistent with the time available, but will consider relevant and properly submitted written submissions from all interested parties.

FEMA encourages interested parties to make written submissions in advance of the meeting on May 21 and as a follow-up to one or both meetings consistent with the instructions for submitting comments stated above. Follow-up comments must be received within three (3) business days of the last meeting held in order to be considered.

FEMA will create a transcript for each meeting and will upload the transcript(s) to the docket referenced above for public viewing. No later than 9:00 a.m. ET on Friday, May 22, FEMA will upload a notice to the docket stating whether the second meeting will be held and specifying when the comment period will be closed, consistent with the paragraph immediately above.

FOR FURTHER INFORMATION CONTACT: Harold Lucie, Joint DPA Office, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472-3184, telephone (202) 212-2900, and email FEMA-DPA@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: Notice of the meeting(s) is provided as required by Sec. 708(e)(3)(B) of the Defense Production Act (DPA), 50 U.S.C. 4558(e)(3)(B), and consistent with 44 CFR part 332.

The DPA authorizes the making of “voluntary agreements and plans of action” with, among others, representatives of industry and business to address conditions that may pose a direct threat to the national defense or its preparedness programs (50 U.S.C. 4558(c)(1)). The President’s authority to facilitate voluntary agreements has been delegated to the Department of Homeland Security (DHS) generally in section 401 of Executive Order 13603¹, “National Defense Resources Preparedness,” and specifically for response to the spread of COVID-19 within the United States in section 3 of Executive Order 13911², “Delegating Additional Authority Under the Defense Production Act With Respect to Health and Medical Resources To Respond to the Spread of COVID-19.” The Secretary of Homeland Security has delegated this authority to the FEMA Administrator in DHS Delegation 09052 Rev. 00.1, “Delegation of Defense Production Act Authority to the Administrator of the Federal Emergency Management Agency” (Apr. 1, 2020).

The FEMA Administrator has found that, in light of the unprecedented nature of COVID-19 and subsequent response requirements, conditions exist which pose a direct threat to the national defense and its preparedness programs. A future pandemic, or resurgence of COVID-19, will similarly threaten the national defense and its preparedness programs. Therefore, FEMA has sought, and received, approval from the Attorney General, after consultation by the Attorney General with the Federal Trade

¹ 77 FR 16651 (Mar. 22, 2012).

² 85 FR 18403 (Apr. 1, 2020).

Commission, to begin the consultations with representatives of manufacturers, suppliers and distributors of personal protective equipment, pharmaceuticals, and other critical health and medical resources for the purpose of making a voluntary agreement under the DPA. The purpose of such an agreement is to maximize the effectiveness of the distribution of critical health and medical resources nationwide to respond to pandemics in general, and COVID-19 specifically, by establishing unity of effort between agreement participants and the Federal Government for integrated coordination, planning, information sharing, and distribution of critical medical resources. With respect to agreement participants specifically, the agreement would establish the terms, conditions, and procedures under which participants agree voluntarily to contribute and facilitate health and medical resource production and distribution capacity as requested by FEMA and other Federal Government entities.

FEMA proposes to make a 5-year voluntary agreement effective as soon as possible to address the Nation's response to COVID-19. FEMA proposes a Committee for the Distribution of Medical Resources Necessary to Respond to a Pandemic (the "Committee") to provide FEMA and the participants a forum to maximize the effectiveness of the distribution of health and medical resources nationwide to respond to a pandemic through integrated coordination, planning, information sharing, and distribution of health and medical resources.

The meeting(s) will be chaired by the FEMA Administrator or his delegate, and attended by the Attorney General or his delegate, and the Chairman of the Federal Trade Commission or his delegate. In developing this agreement, FEMA will adhere to all

procedural requirements of 50 U.S.C. 4558 and 44 CFR part 332 for establishment of this voluntary agreement.

Meeting Objectives: The purpose of the meeting(s) is two-fold:

(1) First, FEMA aims to identify agreement participants. FEMA proposes to invite representatives of major manufacturers, suppliers, and distributors of health and medical resources critical to respond to a pandemic. FEMA requests stakeholder input on identification of appropriate manufacturers, suppliers, distributors, and any other appropriate stakeholders for inclusion in the voluntary agreement.

(2) Second, FEMA aims to gather technical advice from meeting participants on the scope and substance of the draft agreement. FEMA proposes that voluntary agreement will include: provision of technical advice; collective sharing of information; identification and validation of places and resources of the greatest need for medical resources; projection of future distribution demands; collective identification and resolution of allocation of scarce resources among all public and private domestic needs; sharing of vendor, manufacturer and distribution information; and inclusion of any other necessary collective actions to maximize the timely national distribution of health and medical resources necessary to respond to a pandemic. FEMA requests stakeholder evaluation of the objectives outlined above, and requests that stakeholders provide additional recommendations for objectives of the voluntary agreement.

Pete Gaynor,
Administrator,
Federal Emergency Management Agency.

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