

Frequently Asked Questions About the Defense Production Act

Q: What is the Defense Production Act (DPA)?

The DPA was passed in 1950, in response to the Korean War. It allows the U.S. government to organize and oversee production and distribution of essential wartime materials needed to protect the U.S. under emergency conditions. The law is a very powerful and necessary tool for protecting the nation in emergencies.

Q: How can the DPA help us address the COVID-19 crisis?

Demand for Personal Protective Equipment (PPE), test kits, and respirators have sky-rocketed during the COVID-19 pandemic. Our needs have far outstripped the production capacity of existing manufacturers, and the only way to scale up quickly enough to match pandemic-level demand is to get additional manufacturers and suppliers to make the supplies and equipment we desperately need. There are thousands of manufacturers in similar lines of business who could be making PPE, testing kits and other medical equipment for use on the frontlines of the COVID crisis. We need to require them to do so.

For example, a maker of surgical N95s may also be making industrial N95s for construction companies under a different contract; a face shield manufacturer may also be producing scuba masks for a sporting goods company.

The DPA gives the federal government the right to order all these producers to switch to manufacturing the medical supplies and equipment, including companies that make necessary inputs. For example, N95 respirators are made with polypropylene, polyvinyl chloride and melt-blown non-woven fabric. Chemical producers may be making different chemicals, or selling their products to companies who use them to produce other things. Paper mills and textile companies capable of producing the non-woven fabric used in N95 respirators may be under contract to make other products.

Under the DPA, the federal government has the power to order businesses to increase production, and to stop using their productive capacity for other purposes. This power will allow the US to vastly ramp up its production of N95 respirators, surgical masks, protective gowns, face shields, goggles, COVID testing kit materials, ventilators and other items that are in critically short supply.

Without the use of the DPA, a company that is able to produce PPE but which is under contract to produce something else would be sued if it broke that contract to make PPE or other equipment for our hospitals.

DPA is the only way to manufacture and distribute what we need on the frontlines in time. For example, we need billions of PPE items right now, and we only have millions on-hand. We must exercise the full power of the DPA to force industries to produce essential medical supplies and equipment.

Q: Why hasn't President Trump used the DPA to get us the PPE and equipment we need?

That's a good question! On March 18th President Trump activated the DPA, but hasn't actually used the power it gives him to increase PPE production. He claims that private industry has been responsive, without him

having to actually use his DPA powers. He also claims that we have lots of PPE and other critical equipment in the pipeline.

With respect to PPE, these statements are both lies. First, not that many new companies have jumped into the PPE business. Second, between the new entrants, and the existing companies who've offered to expand their production of N95 respirators, the amounts they can produce will be far short of what's needed, and they will not arrive in time.

Under the DPA, the government can force existing manufacturers to expand production and to stop making other product lines. The government can also insist manufacturers in related industries switch production to make PPE and other essential equipment.

Q: What kinds of threats are covered by the DPA?

The DPA gives the federal government the authority, in the event of a war or emergency that impacts national security, to exert direct control on private industries and force them to engage in coordinated production and distribution of any and all materials or products necessary to protect the nation or the national interest.

The DPA goes beyond military products, including "homeland security" and "activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard."

Under the DPA, and the terms of Executive Order 13603 issued in 2012, the powers of the DPA can be delegated to various agencies, including the Secretary of Health and Human Services, in order to procure essential healthcare resources.

Q: What are the powers of the President under the DPA?

- The power to force private producers of vital goods and raw materials to produce specific goods or items needed to address the emergency situation;
- The right to cancel any contracts under which producers make other products or make products for non-governmental purchase;
- The right to install any equipment or machinery necessary to allow production to be carried out with respect to the types of goods produced and the quantity of production;
- The power to allocate materials, services, and facilities as deemed necessary or appropriate to address the emergency situation, including all resources necessary to secure energy, transportation, raw materials, or other necessary elements to support production;
- The right to purchase all final products or their component parts as needed to meet national defense needs before any other private or public purchasers; and
- The power to allocate materials, services, and facilities in any manner and to the extent necessary to address the emergency.

Under the DPA, the federal government has the right to direct private companies to produce needed materials in any amount deemed necessary to respond to a national security crisis. In addition, the government is authorized to take any and all measures to distribute the goods and services in the manner necessary to ensure that they are received where and when they are needed.

Every day that President Trump wastes by not actually using the DPA will cost lives. President Trump must unleash the full force of the DPA now.