

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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May 8, 2020

The Honorable Anna Eshoo
Chairwoman
Subcommittee on Health
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Eshoo,

Since the majority is proceeding with a hearing without any input from the minority, and without providing any chance to work together in a bipartisan fashion, I wanted to take the opportunity to offer up alternative paths we could be embarking on together that are directly related to issues our country is facing at this critical moment. I write to request that the Committee on Energy and Commerce hold a legislative hearing before the Health Subcommittee to review initiatives aimed at improving the Strategic National Stockpile (SNS).

As you know, the SNS is the federal government's supply of medical countermeasures and equipment necessary to respond to public health emergencies that are severe enough to deplete local supplies.¹ The stockpile also contains congressionally mandated countermeasures for chemical, biological, and radiological emergencies that are not available on the commercial market, such as anthrax and smallpox vaccines and treatments. By statute, both the Secretary of the Department of Health and Human Services (HHS) and the Secretary of the Department of Homeland Security may deploy the SNS.² Governors or their representatives may request supplies from the SNS, which can be rapidly delivered to affected areas within 12 hours of the decision to deploy, with additional deliveries later as needed.³

¹ Jared T. Brown, *Deployable Federal Assets Supporting Domestic Disaster Response Operations: Summary and Considerations for Congress*, CRS Report R43560 *available at* https://www.crs.gov/Reports/R43560?source=search&guid=41725a79bee34142824f01ac3f807705&index=1#_Toc535486665 (last updated May 13, 2015).

² 42 U.S.C. §247d-6b.

³ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Preparedness, Public Health Emergency, Stockpile Products, Inventory, *available at* <https://www.phe.gov/about/sns/Pages/products.aspx> (last updated on Apr. 16, 2020).

State and local medical resources became overwhelmed in responding to the spread of COVID-19. On January 30, 2020, the SNS Operations Center was activated under the Assistant Secretary for Preparedness and Response in order to provide critical supplies and support to the front lines of the COVID-19 response.⁴ On March 13, 2020, President Trump made an emergency declaration under the Stafford Act and named the Federal Emergency Management Agency (FEMA) as the lead agency to coordinate the federal government's response, including SNS deployment. By the end of March, the overwhelming majority of supplies needed to address the COVID-19 pandemic that were in the SNS had been pushed to the states.⁵ With the SNS largely depleted of relevant supplies, FEMA, HHS, and other federal partners have been working with manufacturers and distributors to move medical supplies and equipment directly into the domestic supply chain for distribution and procurement.

The Committee has heard concerns about the delegation of the SNS to FEMA and that states are not properly allocating supplies within the state. The Committee has also heard concerns that, due to the limited resources within the SNS, states are having to compete with one another and/or against the federal government to acquire supplies. The SNS was primarily designed and resourced to address discrete events such as localized natural disasters and events requiring highly specialized material and medical logistics capabilities, such as chemical, biological, radiological, and nuclear events.⁶ The statute requires that SNS prioritize products unavailable in the commercial market.⁷ Thus, the stockpile was never designed to be a first response tool for commercially available products, nor was it intended to fully supply the entirety of United States in the event in a nationwide pandemic; and the current COVID-19 pandemic has clearly demonstrated these limitations. That's why it is critical that the Committee evaluate the mission and capabilities of the SNS, review lessons learned from the current crisis, and expeditiously consider bipartisan legislation to strengthen the SNS so that it can more effectively assist state and local partners in the ongoing response to the pandemic, as well as future public health emergencies. Such legislation under consideration must include the following bills:

- H.R. 6516, the Stockpiling for America's Future Endeavors (SAFE) Act, sponsored by Reps. Susan Brooks (R-IN) and Kim Schrier (D-WA), would increase stockpiled supplies by allowing the SNS to accept gifts and donations. Under current law, if the SNS is approached by companies with surplus product or private individuals who wish to make cash donations, the SNS cannot accept

⁴ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Preparedness, Public Health Emergency, Stockpile Products, Strategic National Stockpile Response to COVID-19 Frequently Asked Questions, available at <https://www.phe.gov/emergency/events/COVID19/SNS/Pages/FAQ.aspx> (last updated April 17, 2020).

⁵ Nick Miroff, *Protective gear in national stockpile is nearly depleted, DHS officials say*, THE WASHINGTON POST (Apr. 1, 2020), available at https://www.washingtonpost.com/national/coronavirus-protective-gear-stockpile-depleted/2020/04/01/44d6592a-741f-11ea-ae50-7148009252e3_story.html.

⁶ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Preparedness, Public Health Emergency, Stockpile Products, Strategic National Stockpile Response to COVID-19 Frequently Asked Questions, available at <https://www.phe.gov/emergency/events/COVID19/SNS/Pages/FAQ.aspx> (last updated April 17, 2020); Greg Burel, *The rapidly expanding mission of the Strategic National Stockpile*, THE HILL (Apr. 18, 2020), available at <https://thehill.com/opinion/white-house/493459-the-rapid-mission-of-the-strategic-national-stockpile>.

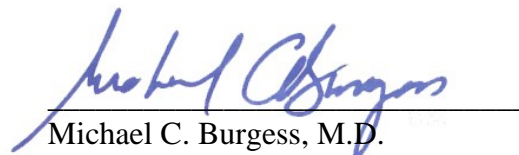
⁷ 42 U.S.C. §247d-6b.

these gifts without going through a cumbersome transaction and approval process. H.R. 6516 would allow the Secretary of HHS to review and authorize these donations and place them into the stockpile for disbursement.

- H.R. 6517, the Stockpile Inventory Modernization (SIM) Act, sponsored by Reps. Susan Brooks (R-IN) and Anna Eshoo (D-CA), would give the SNS the authority to sell surplus existing product to other federal agencies, allowing the SNS to reinvest the proceeds for purchasing new inventory and restocking supplies. Currently, SNS-purchased products remain on the shelves until expiry and are then destroyed. H.R. 6517 would permit the SNS to supplement Congressional appropriations through the sales of unused/unneeded products and improve the ability of SNS to keep inventory up to date.
- H.R. 6531 Medical Supplies for Pandemics Act, sponsored by Reps. Debbie Dingell (D-MI) and Jackie Walorski (R-IN), would allow the SNS to advance capacity development for commonly used, commercially available products by allowing the SNS to enter into joint ventures with domestic manufactures and to establish new or expanded/enhanced manufacturing lines for these products. Under H.R. 6531, SNS-designated lines could produce additional material in the domestic supply chain during peace time and provide immediate access to surge capacity for supplies for the SNS during a public health emergency.

Since its establishment in 1999 as the National Pharmaceutical Stockpile, the SNS has evolved over the years to respond to a variety of public health emergencies. However, COVID-19 has demonstrated that the SNS and the entire U.S. medical supply chain were not able to adequately respond to a pandemic event. As the Committee of jurisdiction over the SNS, the Committee on Energy and Commerce must lead in examining the lessons learned and using that information to advance important legislation that will strengthen the SNS so that the nation is better prepared to respond to the next widespread emergency that significantly disrupts the medical supply chain. Thank you for your consideration and I look forward to working with you on this important issue.

Sincerely,

A handwritten signature in blue ink, reading "Michael C. Burgess", is written over a horizontal line.

Michael C. Burgess, M.D.
Republican Leader
Subcommittee on Health