



**Homeland
Security**

Privacy Office, Mail Stop 0655

January 4, 2021

**SENT VIA EMAIL TO: Katherine.Anthony@americanoversight.org;
Megan.Field@americanoversight.org**

Katherine M. Anthony
Staff Attorney
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

**Re: AMERICAN IMMIGRATION COUNCIL
20-cv-02195 (2021-HQLI-00010)**

Dear Ms. Anthony:

This is an interim response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) (2020-HQFO-01031).

For this production, DHS reviewed 516 pages. In which some of these records are being withheld in full or in part pursuant to FOIA exemption (b)(5) and (b)(6). DHS is consulting with the State Department, Health and Human Services, Department of Justice, Department of Defense on 144 pages of records.

If you have any questions regarding this release, please contact Assistant U.S. Attorney, Kathleene Molen, United States Attorney's Office, U.S. District Court for the District of Columbia, by email at Kathleene.Molen@usdoj.gov.

Sincerely,

A handwritten signature in dark ink, reading "Eric A. Neuschaefter".

Eric A. Neuschaefter
Senior Director, FOIA Litigation, Appeals, Policy, and
Training (Acting)

Enclosure: 516 pages

Page 001

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Page 002

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Page 003

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**Department of Homeland Security,
Office of the General Counsel
Operations & Enforcement Law Division**



DATE: Apr. 24, 2020

SUBJECT: OGC Crisis Cell Update 21

I. SITUATION UPDATE:

Total U.S. Domestic COVID-19 Cases: 857,820 (+31,911)

Total U.S. Domestic Deaths: 48,184 (+1,950)

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Page 006

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Page 007

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Page 008

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of the Freedom of Information and Privacy Act

Page 009

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of the Freedom of Information and Privacy Act

Page 010

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Page 011

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of the Freedom of Information and Privacy Act

Page 012

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of the Freedom of Information and Privacy Act

Page 013

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Title 32 Status by State											
38,070 (+675) Activated				State Active Duty:2,054 (-270)				T32 Approved: 47			
				T-32 502(f):36,016 (+945)				T32 Requested: 7			
NGB Update, April 24, 2020, 6:28 a.m. ET											
State / Territory	SAD	T-32 502(f)	Title 32 Request Status	State / Territory	SAD	T-32 502(f)	Title 32 Request Status	State / Territory	SAD	T-32 502(f)	Title 32 Request Status
AK	83	0	WH AUTHORIZED & APPROVED**	KY	0	659	WH AUTHORIZED & APPROVED**	OH	54	798	WH AUTHORIZED & APPROVED**
AL	620	0	WH AUTHORIZED & APPROVED**	LA	0	1038	WH AUTHORIZED & APPROVED**	OK	1	257	WH AUTHORIZED & APPROVED**
AR	38	0	REQUESTED	MA	95	1428	WH AUTHORIZED & APPROVED**	OR	0	180	WH AUTHORIZED & APPROVED**
AZ	0	895	WH AUTHORIZED & APPROVED**	MD	13	991	WH AUTHORIZED & APPROVED**	PA	112	729	WH AUTHORIZED & APPROVED**
CA	116	1376	WH AUTHORIZED & APPROVED**	ME	0	73	WH AUTHORIZED & APPROVED**	PR	46	850	WH AUTHORIZED & APPROVED**
CO	9	345	WH AUTHORIZED & APPROVED**	MI	0	571	WH AUTHORIZED & APPROVED**	RI	12	824	WH AUTHORIZED & APPROVED**
CT	2	779	WH AUTHORIZED & APPROVED**	MN	11	0	REQUESTED	SC	54	507	WH AUTHORIZED & APPROVED**
DC	0	230	WH AUTHORIZED & APPROVED**	MO	0	760	WH AUTHORIZED & APPROVED**	SD	171	0	N/A
DE	68	0	WH AUTHORIZED & APPROVED**	MS	7	434	WH AUTHORIZED & APPROVED**	TN	19	694	WH AUTHORIZED & APPROVED**
FL	8	2527	WH AUTHORIZED & APPROVED**	MT	0	202	WH AUTHORIZED & APPROVED**	TX	0	2817	WH AUTHORIZED & APPROVED**
GA	0	2528	WH AUTHORIZED & APPROVED**	NC	0	852	WH AUTHORIZED & APPROVED**	UT	25	0	N/A
GU	1	167	WH AUTHORIZED & APPROVED**	ND	91	0	REQUESTED	VA	1	501	WH AUTHORIZED & APPROVED**
HI	29	1202	WH AUTHORIZED & APPROVED**	NE	3	277	WH AUTHORIZED & APPROVED**	USVI	0	147	WH AUTHORIZED & APPROVED**
IA	16	418	WH AUTHORIZED & APPROVED**	NH	2	380	WH AUTHORIZED & APPROVED**	VT	39	193	WH AUTHORIZED & APPROVED**
ID	4	0	REQUESTED	NJ	0	624	WH AUTHORIZED & APPROVED**	WA	0	727	WH AUTHORIZED & APPROVED**
IL	98	745	WH AUTHORIZED & APPROVED**	NM	10	519	WH AUTHORIZED & APPROVED**	WI	25	826	WH AUTHORIZED & APPROVED**
IN	99	1036	WH AUTHORIZED & APPROVED**	NV	0	967	WH AUTHORIZED & APPROVED**	WV	59	424	WH AUTHORIZED & APPROVED**
KS	3	464	WH AUTHORIZED & APPROVED**	NY	10	3055	WH AUTHORIZED & APPROVED**	WY	0	0	N/A
**Title 32 has been authorized and approved by the Secretary of Defense.											

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DHS-20-1106-A-000015

Region	State/Location	EMAC	Federally Supported		Total Federal Vents (SNS + DoD)	SNS Status
			SNS	DoD		
1	CT		350		350	Delivered
1	MA		400		400	Delivered
1	RI		100		100	Delivered
2	NY	100	2,140		2,140	Delivered
2	NYC		2,400		2,400	Delivered
2	NJ	100	1,050	500	1,550	Delivered
3	MD	50	470		470	Delivered
3	DE	50	50		50	Delivered
3	DC	50	200		50	Delivered
4	FL		200		200	Delivered
4	GA		150		150	Delivered
5	IL	100	300		300	Delivered
5	Chicago		300		300	Delivered
5	MI		700		700	Delivered
5	IN		100		100	Delivered
6	LA		350		350	Delivered
6	BOP		20		20	Delivered
6	Navajo Nation		50		50	Delivered
8	CO		100		100	Delivered
9	CA		0		0	N/A
9	LA County		170		170	Delivered
9	GU		55		55	30 – Delivered 25 – En Route
9	NV	50	150		150	Delivered
9	AZ		100		100	Delivered
9	CNMI		25		25	En Route
10	AK		60		60	Delivered
10	OR		0		0	Transferred to 140 NY
10	WA		73		73	WA returned 427 vents to the SNS
Total		500	10,063	500	10,563	

Data last updated
4/24/2020 4:09 p.m.



FEMA

Senior Leadership Brief COVID-19

April 24, 2020 5:00 p.m. ET

For the most up to date COVID-19 data (account required): <https://geohealth.hhs.gov/arcgis/home/>



	Resource	Resource Subcategory	Obligated ¹	In Transit ²	Delivered ³	Total
Personal Protective Equipment (PPE)	Coveralls		22,500	300,000	568,063	890,563
	Face Shields		4,480		6,186,386	6,190,866
	Gloves		5,239,032	185,800	52,162,624	57,587,456
	Goggles				5,030	5,030
	N-95 Respirators		15,184,000	4,882,560	47,851,701	67,918,261
	PAPR		2,082			2,082
	Surgical Gowns		271,824	83,000	5,976,890	6,331,714
	Surgical Masks		2,900,682	648,000	32,347,541	35,896,223
	Tychem Suits			6,100	345,995	352,095
	Tyvek Suits			900	25,325	26,225
Durable Medical Equipment	Elevated Toilet Seats				3	3
	Shower Chairs				6	6
	Shower Mat Non-Slip				12	12
	Ventilators		20		10,805	10,825
Consumable Medical Supplies	Testing Supplies		6,010	28,140	7,414,940	7,449,090
Total			23,630,630	6,134,500	152,895,321	182,660,451

Data last updated
4/23/2020 7:00 p.m.

DHS-20-1106-A-000017





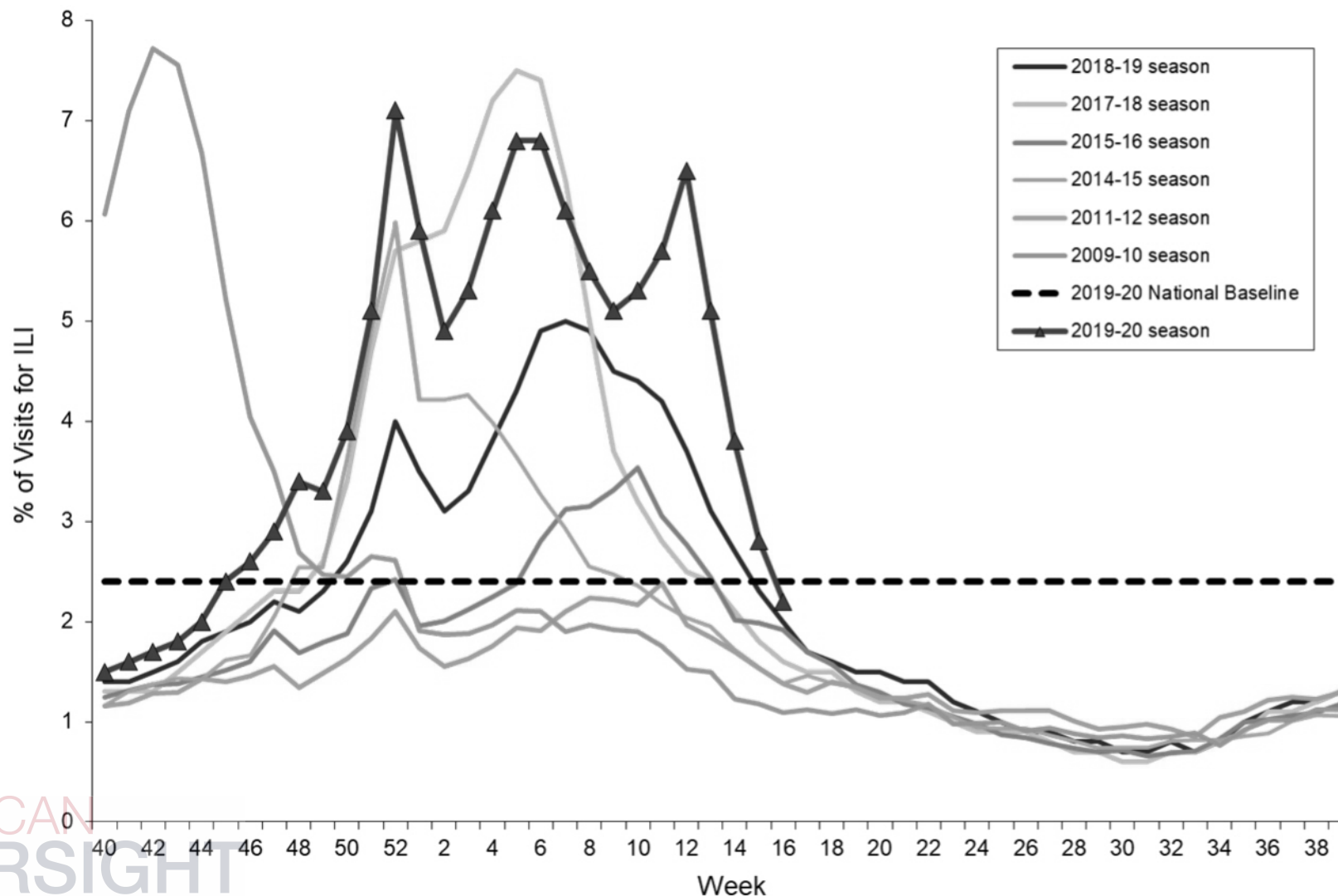
Greater decline
Moderate decline
Plateau
Moderate increase
Greater increase
1-5 cases in the past 2 weeks
0 cases in the past 2 weeks
No reported cases

Describes the trajectory of new illnesses as recently increasing, being stable, or decreasing in number

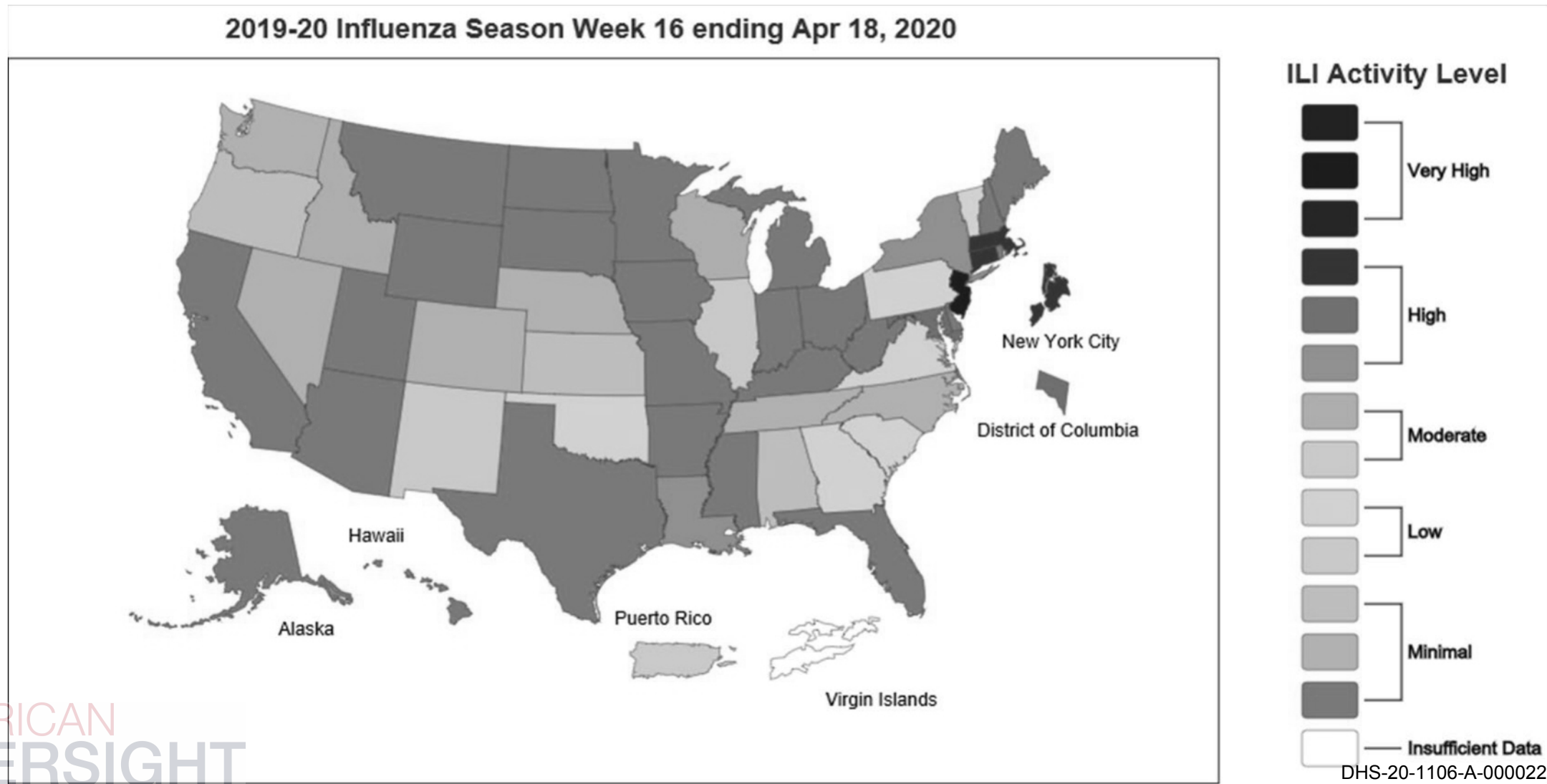
- Incidence rates continue to decrease in multiple counties, including hard hit areas around Detroit and Chicago, in Louisiana and in the New York City region
- Incidence rates have recently increased in many counties in Mississippi, eastern Iowa and the Southwest

Sources: USAFacts, US Census

Percentage of Visits for Influenza-like Illness (ILI) Reported by
the U.S. Outpatient Influenza-like Illness Surveillance Network (ILINet),
Weekly National Summary, 2019-2020 and Selected Previous Seasons



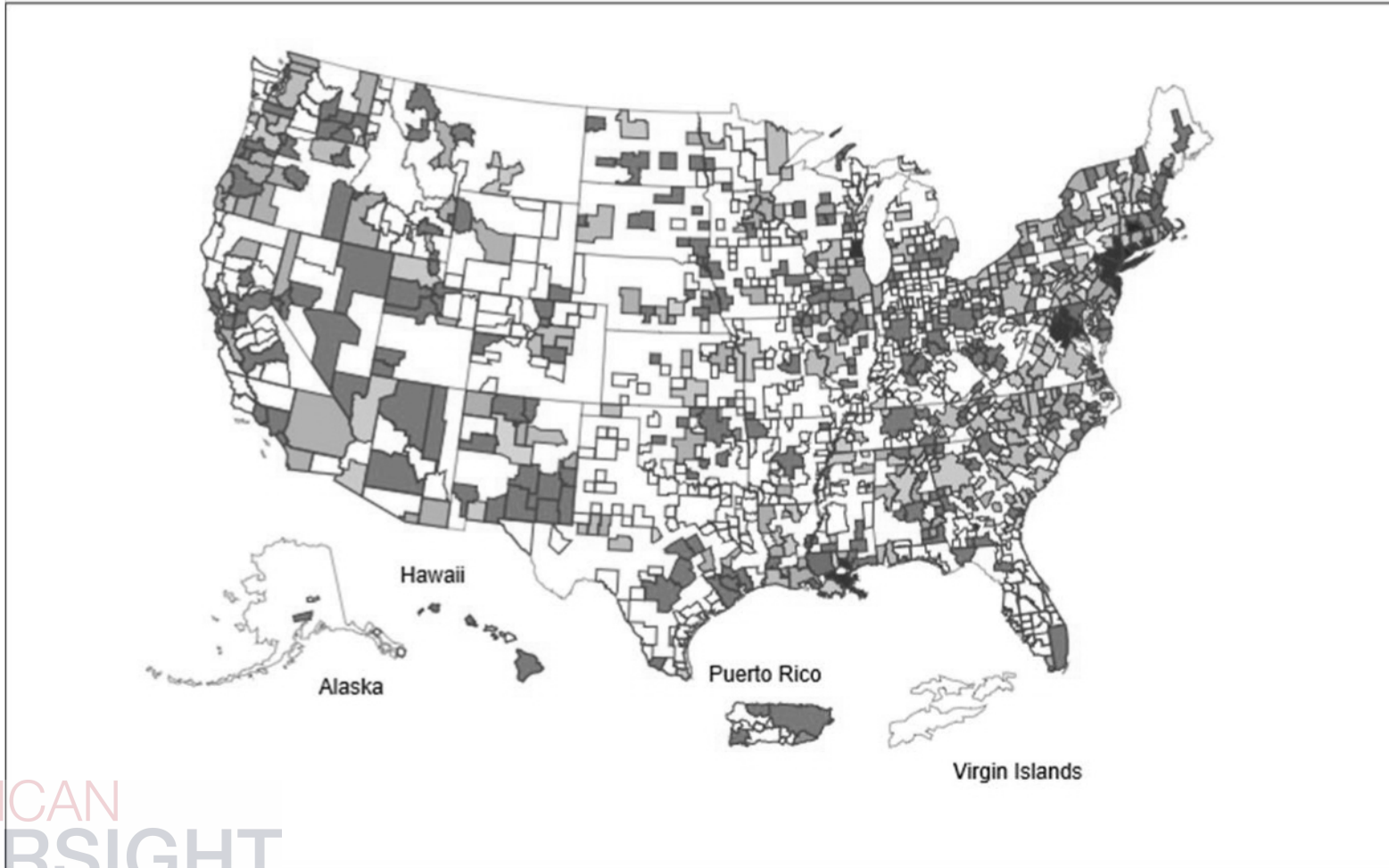
Percentage of Visits for ILI, ILINet, April 18, 2020



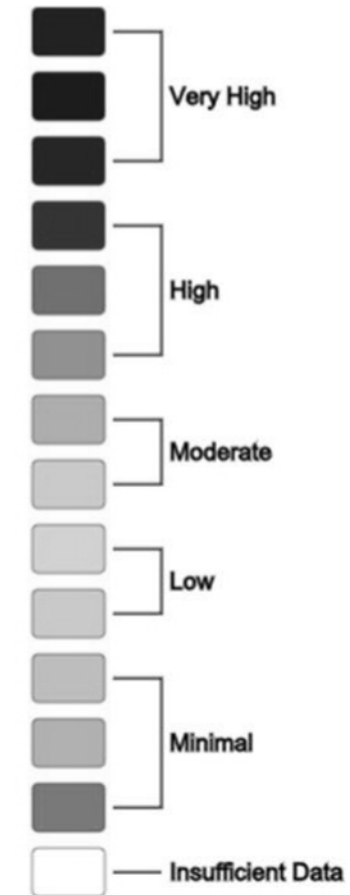
ILI activity by core-based statistical area (CBSA), week ending April 18, 2020 (ILINet)



2019-20 Influenza Season Week 16 ending Apr 18, 2020

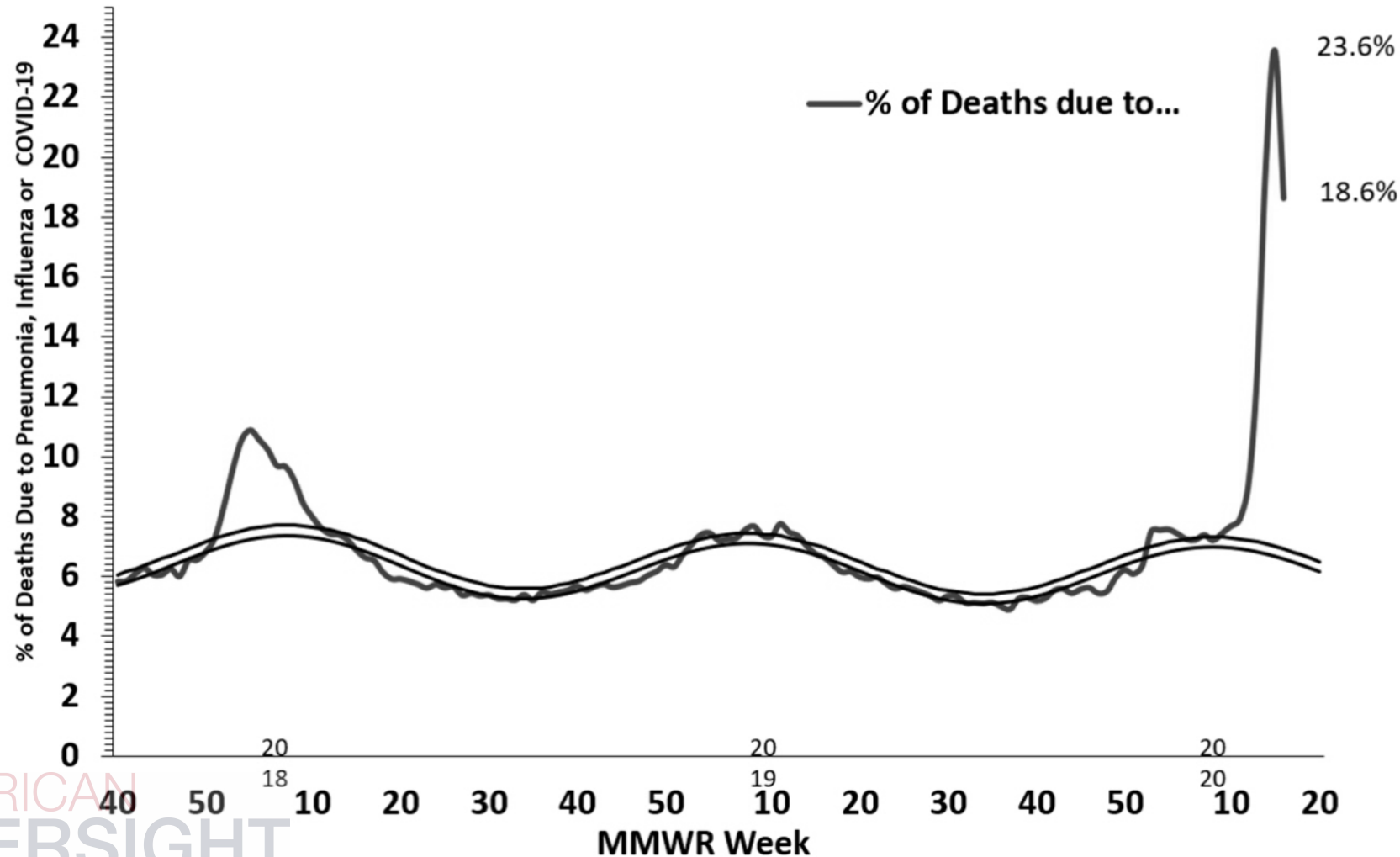


ILI Activity Level



DHS-20-1106-A-000023

Pneumonia, Influenza, or COVID-19 Mortality, NCHS through the week ending April 18, 2020





FEMA



NY State: Preliminary Serology Results, 4/20-4/21

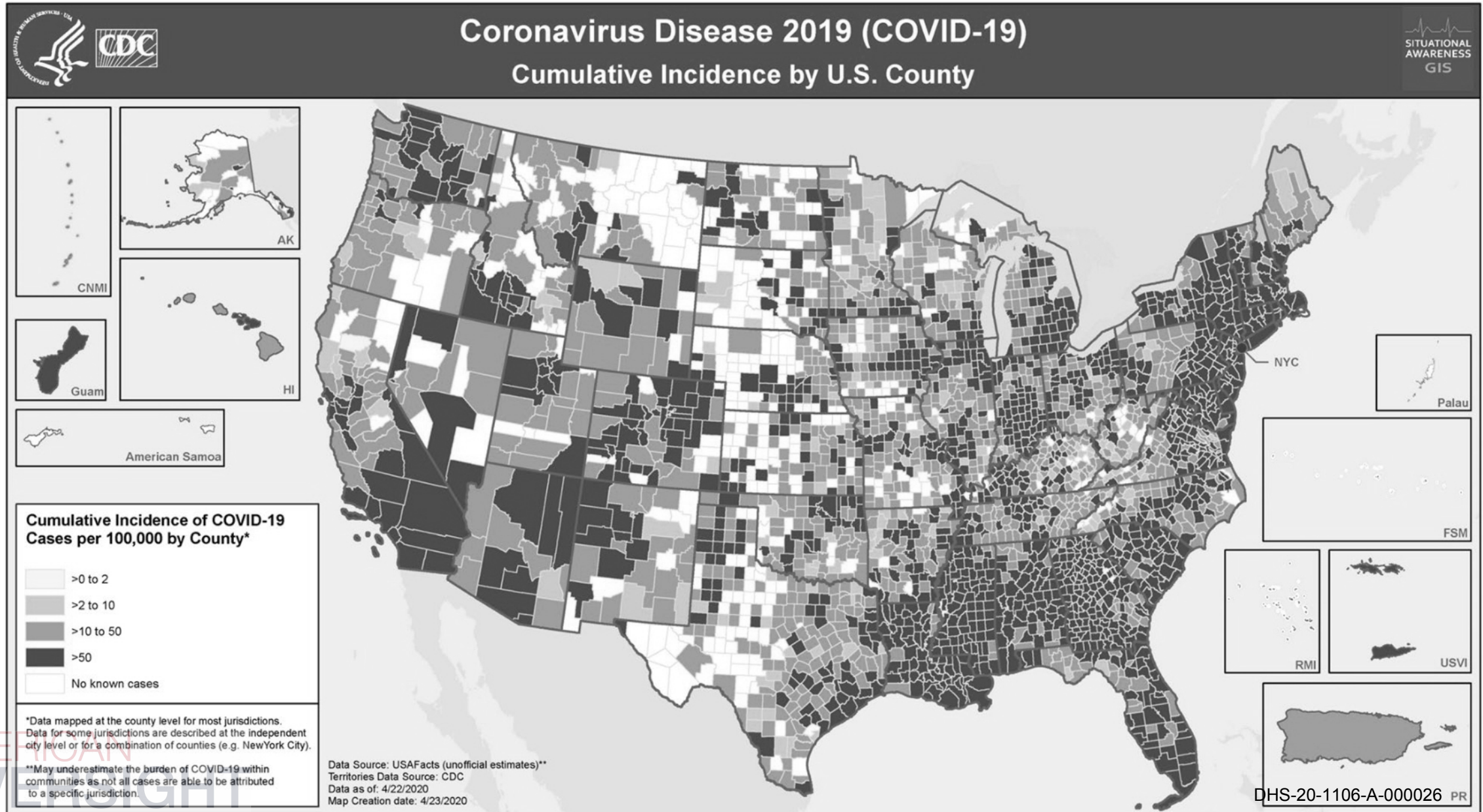
	Percent of Sample	Percent Testing Positive
Overall		13.9%
Sex		
Female	52.0%	12.0%
Male	48.0%	15.9%
Age		
18-24	11.6%	8.2%
25-34	18.6%	15.9%
35-44	16.0%	13.6%
45-54	16.4%	16.7%
55-64	16.7%	14.9%
65-74	11.7%	11.9%
75+	9.0%	13.0%

	Percent of Sample	Percent Testing Positive
Region		
Long Island	14.4%	16.7%
NYC	43.0%	21.2%
Westchester/Rockland	9.8%	11.7%
Rest of State	32.8%	3.6%
Race/Ethnicity		
Asian	8.8%	11.7%
Black	14.3%	22.1%
Latino/Hispanic	17.6%	22.5%
Multi/None/Other	2.2%	22.8%
White	57.1%	9.1%

Sample of ~3,000 people 18 years and older collected at 40 grocery and other box stores in 19 counties on 4/20-21.

Samples tested using the Wadsworth Center Assay for SARS-COV-2 IgG

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Page 027

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Page 028

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Page 029

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Page 030

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Non Responsive Record

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Page 031

Withheld pursuant to exemption

Non Responsive Record

of the Freedom of Information and Privacy Act

Page 032

Withheld pursuant to exemption

Non Responsive Record

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Page 033

Withheld pursuant to exemption

Non Responsive Record

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Page 034

Withheld pursuant to exemption

Non Responsive Record

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Page 035

Withheld pursuant to exemption

Non Responsive Record

of the Freedom of Information and Privacy Act

Page 036

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Page 037

Withheld pursuant to exemption

Non Responsive Record

of the Freedom of Information and Privacy Act

Page 038

Withheld pursuant to exemption

Non Responsive Record

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Page 039

Withheld pursuant to exemption

Non Responsive Record

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Page 040

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#	Status	Task Date	Topic	Action Item	Lead for Action	Due Date	Notes
1	Open	4/25/2020	Dialysis Machine Adjudication	The Healthcare Resilience Task Force will further develop a plan for augmenting the supply of machines, addressing forecasting, and identifying EMAC options. The task force will also continue developing a plan for ramping up dialysis fluid/supplies production. HRTF continues to coordinate with SNS and RSS on dialysis supply shortages and developing a national dialysis CONOPs to deploy HHS-procured dialysis technology and supplies to support state-requested capacity during future COVID-19 waves.	Healthcare Resilience Taskforce	ASAP	Update 05/08: They are continuing to develop an HHS Dialysis CONOP for SNS deployment of dialysis technology and supplies.
2	Open	5/2/2020	Battelle Critical Care Decontamination Systems	Determine availability of storage space for the unassigned Battelle CCDSs and bring a recommendation to the UCG for a decision prior to the end of May. Coordinate discussions with International Affairs and the VA on potential interest in Battelle CCDSs (FEMA). Coordinate with the DATF to conduct analysis on the projected future demand for masks relative to the COVID-19 risk and available supplies. Explore options for repackaging masks to encourage Battelle CCDSs use.	Supply Chain Task Force and FEMA	ASAP	Update 05/08: First item: RSS is in the process of extending the lease for Sharpe Army Depot for COVID-19 support. This action should be completed within 10 days The second: RSS, NRCSC and International Affairs are having ongoing discussions regarding potential interest in the Battelle systems as charged. The third and fourth: The third subject is ongoing; recommend closure for now. Supply Chain has completed providing their support to HCRTF. HCRTF will bring to UCG when they are ready.
3	Open	5/1/2020	Priority Rating Request for Bio Medical Devices Intl (DPA Request #19)	The UCG requested that an SME from HHS attend a future UCG meeting to provide more information regarding the priority rating request and the expected impacts to other orders.	Mr. Doolin, SCTF	Week of 5/4	Update 05/08: HHS Office of General Counsel has been in dialogue with the company to obtain more information about the impacts of their request on their other customers and ability to deliver as promised. If the NRCS Chief calls on Mr. Doolin when this item is reviewed at UCG, he will be ready to either confirm or update it further.

Decision date	Topic	Decision	Lead for action
5/7/2020	Air Bridge Transition	The UCG approved discontinuing the scheduling of Air Bridge flights after May 8, with the exception of flights for gowns. SCTF will monitor and reevaluate gown transport by June 1. The 31 currently scheduled Air Bridge flights will continue until complete.	Supply Chain Task Force
5/2/2020	Battelle Critical Care Decontamination	The UCG approved the recommendation to reduce the workforce for operating the Battelle CCDs.	Supply Chain Task Force
4/30/2020	DPA Title III	The UCG approved a DPA Title III request for Hollingsworth & Vose to expand domestic industrial capacity.	Mr. Doolin
4/30/2020	Voluntary Agreements (DPA Request #18)	The UCG approved the request to send the DPA Title VII memo to the White House Task Force for concurrence (five-year voluntary agreement).	Mr. Doolin
4/25/2020	Dialysis Machine Adjudication	The UCG approved the deployment of the 50 machines to New York and exercising the contract option for leasing an additional 50 machines.	Healthcare Resilience Task Force
4/25/2020	Priority Ratings for Hollingsworth & Vose	The UCG approved the DPA Title I priority ratings request for Hollingsworth & Vose.	Mr. Doolin and Mr. Baum
4/19/2020	Testing Strategy and Supply Distribution Plan	The UCG concurred on moving forward with a modified course of action to expand the IRR capability in a phased manner to support a broader spectrum of public health laboratory requirements for testing and medical diagnostics supplies by May 15. The priority sourcing for non-governmental customers will be through normal private market vendors. The SNS will resume the contract and distribution of urgent supplemental requirements outside the IRR process as they arise but may utilize FEMA's existing temporary contracts for the CBTS effort until the end of their period of performance.	Mr. Dozor
4/19/2020	Proposed Strategy for Title III DPA Investments	The UCG concurred on the revised strategy with Dr. Kadlec's changes and decided that RADM Polowczyk would be the main briefer.	COL Work, SCSTF, Mr. Doolin
4/17/2020	General Motors (GM) Ventilator Allocation and Distribution	The FEMA Administrator retroactively approved the transfer of ventilators, and the UCG directed HHS to execute the necessary EUA processes. The UCG concurred that all future ventilator allocations will follow the processes approved by the UCG.	Supply Chain Task Force
4/16/2020	Re-Opening Framework	The UCG saw no issue with this approach and recommended that Dr. Redfield present this brief to the WH TF.	Dr. Jernigan

Decision date	Topic	Decision	Lead for action
4/15/2020	Ventilator Reallocation Strategies	The UCG decided that, until the SNS starts accumulating ventilators that have been ordered to build up the stockpile, HHS/FEMA should pursue recovery of allocated ventilators. The compelling reason for this course of action is not just that we want them back, but should states need them again, we want them ready to go. The UCG directed HHS/FEMA move forward with a modified COA #2, to add the "5 Question" guidance from COA #3 to provide decision support, and to include timelines for regular re-engagement and re-evaluation with states. Additionally, the UCG advised HHS/FEMA to prioritize recovery of ventilators from recipients of large quantities that remain unused before moving on to smaller quantities that remain unused.	
4/14/2020	Medical Operations Coordination Cell	The UCG approved a proposal to optimize patient distribution by augmenting EOCs with clinical experts that coordinate healthcare capacity	Healthcare Resilience Task Force
4/14/2020	Use of a Common Approach for Presentation of Hospital Facility Data and Long-Term Care Facility Data	The UCG approved a more streamlined approach to facilitating information sharing among Federal, state, and healthcare entities regarding hospital bed, ICU, ventilator, and other resource capacity and requirements.	Data and Analysis Task Force
4/14/2020	Cloth Mask Distribution	The UCG approved the concept of targeting cloth masks to 1) priority infrastructure sectors; 2) Federal workforce with public facing missions; 3) fulfill requests from states; and 4) public distribution in hotspots. Nursing homes will not be targeted.	
4/13/2020	Virtual Strategic Reserve Coordination	Primary reserve will be through hospitals. SNS will be backup reserve of 1-5%. 4,000 ventilators are being considered as an asset for those health care systems that are interested in being in this program. HHS is recommended to own this system moving forward.	WH TF
4/11/2020	Update on Ventilator Distribution	The UCG approved 100 vents to specified counties outside Chicago in Indiana.	NRCS Chiefs
4/11/2020	Virtual Strategic Reserve Coordination	The UCG determined that additional work was needed on the proposal, but that the concept to create leverage is promising if risks can be managed appropriately. The UCG also noted that, at this time, it is not believed that such a policy is necessary for meeting the ventilator needs in the short term. However, based on what we have learned in the last 30 days, the UCG believes such a policy has strategic value as a national preparedness effort.	WH TF
4/11/2020	Ventilator demobilization	To get ready for the second wave in the fall, the UCG concurred with Mr. Greene's recommendation that the SNS aggregate ventilators as they are de-mobilized to inspect and refresh them.	Supply Chain Task Force

Decision date	Topic	Decision	Lead for action
4/11/2020	Abbot machine distribution and DOD support	MG McGee will facilitate connections between DOD, ASH, and CDC to provide technical support and to ensure DOD requirements for testing are known to ASH.	
4/9/2020	DPA Request 12 USACE Alternate Care Facilities	The UCG approved the SC TF move forward with the WH coordination process for DPA Request 12.	Supply Chain Task Force
4/9/2020	DPA Request 13 CombatMed Ventilator Contract	The UCG approved the SC TF move forward with the WH coordination process for DPA Request 13.	Supply Chain Task Force
4/9/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 208 Vents to New Jersey.	NRCS Chiefs
4/9/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 250 vents to Maryland.	NRCS Chiefs
4/9/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 150 vents to Nevada.	NRCS Chiefs
4/9/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 200 vents to Massachusetts.	NRCS Chiefs
4/9/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 100 Vents to Connecticut.	NRCS Chiefs
4/5/2020	Ventilator Allocation Recommendation	The UCG approved 150 ventilators to Illinois.	NRCS Chiefs
4/5/2020	Use of DPA Titles 1 and 3 for General Motors and Zoll	UCG approves that General Motors and Zoll are approved with DPA Title 1 priority rates to mirror the previously approved six ventilator producers.	Supply Chain Task Force
4/4/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 200 ventilators to New Jersey.	NRCS Chiefs
4/4/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 30 ventilators to Guam.	NRCS Chiefs
4/3/2020	Request Use of DPA Authorities	The UCG approved that DPA Request 06A and DPA Request 07 go to the White House (NSC) to start approval process.	Mr. Doolin
4/3/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 300 Vents to Michigan.	NRCS Chiefs
4/3/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 100 vents to Massachusetts.	NRCS Chiefs
4/3/2020	Ventilator Allocation Recommendation	UCG approved NRCS Chiefs' recommendation of 200 vents to Louisiana.	NRCS Chiefs
4/3/2020	Addition of DOD Ventilators to SNS Total	DOD to send ventilators to a few SNS sites so they can be aggregated, subjected to testing to ensure they are operational, and only then added to the SNS vent total.	NRCS Chiefs
3/30/2020	Laboratory Diagnostics Prioritization	Prioritize low throughput point of care (POC) tests and reagents for most commonly used moderate throughput platforms.	Laboratory Diagnostics Task Force
3/30/2020	Laboratory Diagnostics Prioritization	Prioritize high throughput reagents for commercial labs.	Laboratory Diagnostics Task Force
3/30/2020	Laboratory Diagnostics Prioritization	Prioritize the International Reagent Resource (IRR) to receive reagents so they can support State and Public Health Laboratories.	Laboratory Diagnostics Task Force
3/30/2020	Laboratory Diagnostics Prioritization	Purchase rapid point of care (POC) devices and reagents from startup companies like MesaBiotech who have the capacity to ramp up production.	Laboratory Diagnostics Task Force; Medical Countermeasures Task Force

Decision date	Topic	Decision	Lead for action
3/30/2020	DPA Case #5 ICO Philips	The UCG concurred this recommendation go to the WHTF for approval	Supply Chain Task Force
3/29/2020	Ventilator Allocation Recommendation	The UCG concurred with the recommendation provided by the NRCC Co-chief	NRCC Co-chief
3/28/2020	National Resource Prioritization Cell	The UCG directed the NRCC to implement the concept within the existing structure	NRCC Chief
3/28/2020	Transition Plan for the Community Based Testing Sites	The UCG concurred that the target date for transition to state-control of CBTSs be April 10th. For states who are ready to take control now, the transition can be expedited.	
3/28/2020	Transition Plan for the Community Based Testing Sites	The UCG concurred that for states that are not in compliance with the CBTS guidance, the federal government will stop supporting their CBTSs.	
3/28/2020	On the spot approval of ventilators based on critical shortfall	The UCG concurred on using this process at this time to review state requests for ventilators. This process will be managed by the NRCC and elevated to an ad-hoc UCG if one the following thresholds are met: If the NRCC recommends, for any particular state, to allocate over 1% of the ~10,000 ventilators remaining in the SNS (i.e. 100); if the NRCC recommends allocating a number of ventilators in total amounting to greater than 5% of the remaining SNS (i.e., 500) at any point prior to Tuesday 3/31/20; or if the number recommended exceeds 250 ventilators in any one day.	
3/26/2020	Ventilator Update	UCG agreed to proceed with a short-form contract for ventilator acquisition with select companies vetted by the supply chain task force.	
3/25/2020	DPA authority for N-95 Masks	UCG members approved the DPA clause for the N-95 Mask contract to go to the White House Task Force for review. Decisions about whether to add a priority rating to individual task orders can be decided on a case-by-case basis.	
3/24/2020	Ventilators	UCG agreed that modeling would not use "per capita" in modeling that will be used for identifying requirements for respirators.	
3/24/2020	DPA authority for N-95 Masks	UCG approved Admiral Giroir moving forward with purchase of facemasks.	
3/24/2020	Other Supplies and Data Requirements	Majority of remaining SNS supplies will be sent to NY based on data but still being strategic and planning for procuring more supplies for other hot spots.	
3/22/2020	PPE	keep fulfilling orders as we can without depleting and protecting the PPE for first responders (Federal responders, test sites - 75 % pro rata)	
3/21/2020	Allocation of medical supplies and equipment	support the Admiral's allocation model (purchase what we need for CBTS, purchase some for SNS, let the rest go to the market - point supply towards demand)	
3/21/2020	Allocation of medical supplies and equipment	work with Department of Commerce to look at prioritization of orders and prevent shipments from going outside of the U.S.	
3/21/2020	USNS Mercy	sending the USNS Mercy to California	

Decision date	Topic	Decision	Lead for action
3/21/2020	Ventilators	Letter of intent will be signed by ASPR TODAY to increase manufacturing capacity (letter will go to the producer)	

United States Senate

WASHINGTON, DC 20510

April 3, 2020

Rear Admiral John P. Polowczyk
Leader, Supply Chain Stabilization Task Force
Federal Emergency Management Agency
500 C Street S.W.
Washington, D.C. 20472

Dear Rear Admiral Polowczyk:

I write today to urge you to immediately develop and implement a nationwide ventilator database and distribution program. Doing so will help us send these devices to where they are needed, when they are needed, and inevitably save countless lives.

As the leader of the newly-established Supply Chain Stabilization Task Force at the Federal Emergency Management Agency (FEMA), you are no doubt aware that our nation is facing a critical shortage of ventilators. Today, many health systems throughout the country are very close to reaching their ventilator capacity. These systems have been warning for weeks that as the number of COVID-19 cases continues to rise, there will be an insufficient supply of ventilators for every patient who will need one. In anticipation of this, many health systems and states are preparing ventilator allocation guidelines.¹ This is a national shame that should be felt deeply by our government, but it should also ignite immediate action.

There were 9,404 ventilators in the federal Strategic National Stockpile (SNS) and 1,065 ventilators available from the Department of Defense as of March 31st. New Jersey has made several requests for ventilators from the SNS, including a request last week for 2,500.² Since then, the state received 850 ventilators, which is well below its request, and more importantly, its need.³ While it seems that there are several promising developments to produce tens of thousands of ventilators in the coming months, there are states, such as New Jersey, that need ventilators now.^{4,5} The potential of new ventilators in July will not help New Jerseyans in April.

¹ Khimm, Suzy. "Who Gets a Ventilator? Hospitals Facing Coronavirus Surge Are Preparing for Life-or-Death Decisions." *NBC News*, 18 Mar. 2020, <https://www.nbcnews.com/health/health-care/who-gets-ventilator-hospitals-facing-coronavirus-surge-are-preparing-life-n1162721>.

² Young, Elise. "N.J. Seeks 2,500 Ventilators From Federal Stockpile: Governor." *Bloomberg*, 26 Mar. 2020, <https://www.bloomberg.com/news/articles/2020-03-26/n-j-seeks-2-500-ventilators-from-federal-stockpile-governor>

³ Racioppi, Dustin and Washburn, Lindy. "Coronavirus surge begins: NJ looking for refrigerated trucks for victims, more ventilators." *Northjersey.com*, 1 Apr. 2020, <https://www.northjersey.com/story/news/coronavirus/2020/04/01/coronavirus-nj-wants-refrigerated-trucks-victims-ventilators/5105113002/>

⁴ Carey, Nick. "Ford, GE to produce 50,000 ventilators in 100 days." *Reuters*, 30 Mar. 2020, <https://www.reuters.com/article/us-health-coronavirus-usa-ford-motor/ford-ge-to-produce-50000-ventilators-in-100-days-idUSKBN21H39F>

⁵ Colias, Mike. "GM Hustles to Pump Out Ventilators to Fight Coronavirus." *The Wall Street Journal*, 30 Mar. 2020, <https://www.wsj.com/articles/gm-hustles-to-pump-out-ventilators-to-fight-coronavirus-amid-trump-84116826>

On March 31st, FEMA requested information from states, including about their ventilator supply, to help the federal government manage federal ventilator resources in the SNS and from the Department of Defense. The purpose of this request is to “ensure the ventilators are shipped to the states in the amount needed to manage the immediate crisis.”⁶ This information-gathering should be helpful, but much more must be done.

I urge you to use the information collected by FEMA to create a database that illuminates where the ventilator supply is throughout the country and where the greatest ventilator needs are. Using this database, FEMA should immediately distribute *all* of the ventilators in the federal supply to the states that need them now. FEMA should also use this information to work with states and health systems to voluntarily redistribute some ventilators from areas where they are not being used currently to areas that need them now. In coordination with other federal agencies, FEMA should arrange to transport ventilators to where they are needed and ensure the volunteering entities that ventilators will be sent back to them as necessary.

In addition, as more ventilators are produced, particularly any that are produced as a result of the Defense Production Act, FEMA and other federal agencies should use the database to direct those ventilators to the areas where they are needed most. Ventilator manufacturers have even made this commonsense request themselves. In a March 24th letter to Administrator Gaynor, Scott Whitaker, President and Chief Executive Officer of AdvaMed wrote, “there are problems in allocating devices to health care providers who need them most. ... We believe the most effective way to address these allocation issues is for the Administration to designate a lead agency, such as FEMA, to oversee these allocation decisions with the active input of clinical experts, including the CDC, and other stakeholders, including members of the health care community, patient advocacy groups, and industry.”⁷

There is still a lot of work to do to increase the supply of ventilators in this country, but creating a nationwide ventilator database and distribution program will allow us to more effectively utilize our current supply and ultimately save countless American lives.

Thank you for your serious consideration of my request. I look forward to continuing to work with you to ensure Americans have the supplies and equipment they need to respond to the COVID-19 pandemic.

Sincerely,



Cory A. Booker
United States Senator

⁶ CONGRESSIONAL ADVISORY #15: Coronavirus (COVID-19) Pandemic - Ventilator Request, 31 Mar. 2020.

⁷ Whitaker, Scott. Advanced Medical Technology Association, <https://www.advamed.org/sites/default/files/resource/advamed-recommendation-centralized-ventilator-procurement-allocation-decision-making.pdf>.

Page 049

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COVID-19 Community Innovation Stories, Week of April 27, 2020

In the face of the Coronavirus Disease pandemic (COVID-19), the country is seeing innovations in communities that highlight the best of American ingenuity. We highlight these stories to show how many are helping those around them, and prompt everyone to think about how they can help others.¹

City of Shoreline Community Emergency Response Team

The Community Emergency Response Team (CERT) in the city of Shoreline, Washington, has made the showers at the local recreation centers available for those experiencing homelessness. The showers are available three days per week for four hours each day. The CERT members screen individuals coming in by taking their temperature as a preventative measure. The Shoreline CERT volunteers will begin assisting with food box distribution at a King County Housing Facility in Shoreline in the near future.²

Lysol Factory Workers

The Lysol factory in Somerset County, New Jersey, has dedicated all of their aerosol lines to producing Lysol disinfect spray. The factory is receiving more than 50 railcar deliveries per month to supply alcohol, a key disinfectant ingredient, for aerosol lines that are operating 24 hours a day, 7 days a week. The company has distributed wallet cards to factory employees to display their essential service status. Employees are staying voluntarily into the next shift in efforts to aid in the fight against COVID-19. Employee morale has shifted from viewing their works as simply a job, to feeling like a front-line fighter against the virus.³

Braskem America Workers

In an effort to ramp up production of polypropylene, a raw material used to produce personal protective equipment (PPE), 43 employees voluntarily isolated at a Pennsylvania Braskem America plant for 28 days. The workers slept, ate, and worked 12-hour shifts at the factory, producing tens of millions of pounds of raw material crucial for the manufacture of face masks, surgical gowns, and disinfectant wipes. By living at the factory, employees could avoid exposure to COVID-19 through daily commutes.^{4,5}

¹ This document contains references and links to non-federal resources and organizations. This information is meant solely for informational purposes and is not intended to be an endorsement of any non-federal entity by FEMA, U.S. Department of Homeland Security, or the U.S. government.

² CERT COVID-19 Response as of 4/16/2020

³ <https://www.choosenj.com/news/lysol-factory-job-becomes-a-calling-hey-i-work-at-the-place-that-makes-that/>

⁴ <https://www.washingtonpost.com/nation/2020/04/23/factory-masks-coronavirus-ppe/>

⁵ <https://www.inquirer.com/health/coronavirus/coronavirus-ppe-materials-marcus-hook-delaware-county-factory-joe-boyce->



FEMA

Robots in Medical Settings

A Boston hospital has incorporated a Boston Dynamics robot dog name Spot, which can be operated remotely for social distancing and will allow hospital workers to speak with infected patients through a tablet attached to the “face” of the robot. Unlike other wheeled robots, Spot’s “legs” allow the robot to navigate through lines of patients for triage without getting stuck or crashing into other equipment. Spot is also able to relieve some burden from overworked hospital staff by taking over basic tasks like delivering supplies.⁶

Skip-Checkout Phone Applications

A grocery chain in New York has promoted the use of a mobile checkout application that allows customers to spend less time in stores and reduce human contact. Through the app, customers can scan product bar codes while shopping and scan a QR code to indicate they are ready to pay before exiting the store.⁷

Combatting the “Infodemic” with Comics

A comic is increasing public awareness about COVID-19 misinformation by featuring cartoon characters that explain why pandemic situations are conducive to viral rumors and how to practice good information hygiene. The comic recommends exercising skepticism by conducting fact checks and being aware of emotional, sensationalized, or divisive stories. The comic empowers readers to “flatten the curve of misinformation” with graphics that allow for concise and memorable communication.⁸

FEMA’s Best Practice Initiative

Nationwide, there are extraordinary efforts nationwide to support personnel and resource needs to battle the COVID-19 pandemic. FEMA is working to highlight these efforts and encourage everyone to think about what they can do to be a part of providing solutions to help. Visit <https://www.fema.gov/coronavirus/best-practices> for more information.

Topics for the “Best Practices” series are generated from crowd-sourced suggestions. Have an idea? Let us research it! Organizations and individuals can e-mail best practices or lessons learned to fema-cipsupport@fema.dhs.gov.

For more information on how to help during COVID-19, visit [FEMA’s website for information on donations and volunteering](#).

FEMA does not endorse any non-government entities, organizations, or services. Claims made by third parties have not been independently verified by FEMA.

[20200423.html](#)

⁶ https://www.wired.com/story/spot-the-coronavirus-doctor-robot-dog/?mbid=social_twitter&utm_brand=wired&utm_campaign=wired&utm_medium=social&utm_social-type=owned&utm_source=twitter

⁷ <https://www.springwise.com/innovation/retail/fairway-coronavirus-skip-checkout-app>

⁸ <https://www.npr.org/2020/04/17/837202898/comic-fake-news-can-be-deadly-heres-how-to-spot-it>

Learn more at [fema.gov](https://www.fema.gov)

2 of 2

Page 053

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		Senior Leadership Brief COVID-19 May 8, 2020 5:00 p.m. ET			
For the most up to date COVID-19 data (account required): https://geohealth.hhs.gov/arcgis/home/					
Current Situation: FEMA, HHS, and our federal partners are working with state, local, tribal and territorial (SLTT) governments to execute a Whole-of-America response to the COVID-19 pandemic. While states with stricter COVID-19 countermeasures continue seeing protests, states that have begun easing restrictions are experiencing crowds in parks and other outdoor areas, leading some to worry about additional outbreaks. The spread of COVID-19 in rural areas is also becoming a growing source of concern as prisons and nursing homes account for most of the spread in these areas. CDC Update: CDC confirmed, probable, and presumptive U.S. cases of COVID-19: 1,242,376 (across 50 states and D.C., Guam, PR, CNMI, and USVI); Deaths: 75,170; Combined CDC and WHO reported global cases: 3,672,238; global deaths: 254,045; Countries and areas with cases: 215 (HHS Update, May 7, 2020, 7:49 a.m. ET)					
Testing: 8,163,543 (+347,005) cumulative as of May 8 (includes samples tested by State/Local Public Health Laboratories, Commercial Laboratories, Hospital Laboratories, CDC, VA, and Abbott ID NOW instruments).					
Health and Medical Lifeline				Other Domestic Lifelines	
Public Health	Testing - NM: NM Department of Health may add another testing site at meat packing plant in Southern NM; swabs are primary concern for meeting output (FEMA Region VI Update, May 7, 2020, 2:02 p.m. ET) - DC: Mass testing was conducted on May 7 at the University of the DC; the testing operations will also be extended to the National Capitol Region partners and D.C. government agencies (FEMA Region III Update, May 8, 2020, 2:06 p.m. ET) - MD: As of May 7, eight Vehicle Emissions Inspection Program testing sites are currently operating as testing sites and have conducted 4,915 tests; Dept of Health hopes to open the Carroll County Agricultural Facility testing site between May 10 and May 16 (FEMA Region III Update, May 8, 2020, 2:06 p.m. ET) - UT: Coordination between Department of Health, Test UT, and key private sector partners is underway to determine how businesses can use the Test UT program to test personnel as a component of reopening (FEMA Region VIII Update, May 8, 2020, 2:23 p.m. ET)	Cases 1,242,376 New Cases 27,553 Percent Change in Cases 2.4%		Comms Some states are not classifying communication employees as essential workers, which could delay industry's response to outages or demands for new services (ESF-2 Update, May 6, 2020, 1:13 p.m. ET)	
	Mitigation - CISA will submit version 3.1 of the Essential Critical Infrastructure Workers list to the White House for final review and clearance (DHS NOC Update, May 8, 2020, 9:35 a.m. ET) Mental Health - TX: Health and Human Services Commission has received \$5.8M from FEMA's Immediate Services Crisis Counseling and Training Program funds to provide crisis counseling services to Texans who have been affected by the COVID-19 pandemic (CISA Update, May 8, 2020, 4:49 a.m. ET) International - FEMA International Affairs coordinated a donation of 60K cloth masks from Vietnam; arrived on May 7 for allocation to CA (FEMA International Affairs, May 8, 2020, 2:00 p.m. ET)	Deaths 75,170 New Deaths 2,105 Percent Change in Deaths 2.5%		Food, Water, & Shelter - NY: Launching "Nourish NY Initiative" to connect upstate farms with food banks and partner with dairy producers; to date, food and products have been purchased from more than 2,100 Upstate farms and nearly 50 feeding partners (FEMA Region II Update, May 8, 2020, 11:00 a.m. ET) - NY: Mass Feeding Taskforce identifying need through weekly survey of approximately 2,370 feeding partners (FEMA Region II Update, May 8, 2020, 11:00 a.m. ET) - WY: Salvation Army: King County Shelter transitioned to non-congregate hotel sheltering (ESF-6 Update, May 7, 2020, 2:10 p.m. ET) - CO: Salvation Army distributing infant/toddler supplies (e.g., formula, food, diapers, and clothes) provided through state/federal funding (ESF-6 Update, May 7, 2020, 2:10 p.m. ET) - ME: Fishing industry to get \$20M in funding through CARES Act, the fifth largest amount in the nation out of the 31 states to receive fishing-industry bailouts (FEMA Region I Update, May 8, 2020, 12:48 p.m. ET) - ME: Patriots truck stops in Bangor (Penobscot County) to deliver meals for veterans through the Food4Vets program (FEMA Region I Update, May 8, 2020, 12:48 p.m. ET) - IN: Three meat-processing plants resumed limited operations this week; 70-90% of food bank support is attributed to National Guard and the Civil Air Patrol (FEMA Region V Update, May 8, 2020, 1:41 p.m. ET) - PA: National Guard is assisting the Feed Taskforce with packaging and distribution of food (FEMA Region III Update, May 8, 2020, 2:06 p.m. ET) - USDA: Food and Nutrition Service has approved the states of NY and PA to operate a Pandemic-Electronic Benefits Transfer (P-EBT) program (ESF-11 Update, May 8, 2020, 2:16 p.m. ET) - FEMA ESF-6: Coordinated with Crisis Cleanup to discuss trends and possible gaps in access to food for those with disabilities (ESF-6 Update, May 8, 2020, 2:16 p.m. ET) - TX: CDC Team identified four beef processing plants in Amarillo area with cases; working to visit additional sites, provide mitigation recommendations, and develop risk communications plan (ESF-8 Update, May 8, 2020, 3:03 p.m. ET) - MN: A pork processing plant in Worthington reopened May 6, with only the euthanasia section operating to depopulate ~13,000 head/day (FEMA Region V Update, May 8, 2020, 1:41 p.m. ET)	
Hospital Capacity - DC: Office of the Chief Medical Examiner: DoD providing 6 (+2) mortuary affairs personnel for the Mortuary Affairs Collection Team; arrived on May 6 and did combined joint reception, staging, onward movement, and integration at DC Armory with DCNG beginning on May 7 (DoD Update, May 8, 2020, 8:39 a.m. ET) - PA: Temple ACS: transitioned to idle status on May 4; 34 personnel began quarantine and reverse joint reception, staging, onward movement, integration and demobilization onsite; an additional 37 personnel will continue to support PA hospitals (DoD Update, May 8, 2020, 1:03 p.m. ET) - MA: Urban Area Medical Task Force (UAMTF) at Boston Convention Exhibition Center: mission completed on May 6; awaiting decision on location for retrograde operations; total patients seen: 107; UAMTF at Tewksbury Hospital: anticipated mission complete on May 21 (DoD Update, May 8, 2020, 1:03 p.m. ET) - PA: National Guard (PANG) currently supporting staff at five nursing homes and there are plans for PANG to assist with an additional location (FEMA Region III Update, May 8, 2020, 2:06 p.m. ET)	Key Updates/Actions FEMA HQ: National Watch Center Steady State; NRCC Level I; Level 1: Region I, IX; Level 2: Regions II, III, IV, V, VI, VII, VIII, X; COVID-19 Major Declarations: 57 (+1) (FEMA Update, May 8, 2020, 4:24 p.m. ET) Department of Homeland Security: 3,205 (+3) FEMA employees deployed to support COVID-19 Response; IMAT-A teams deployed to 27 states, territories, and DC; LNOs deployed to 37 states and territories (FEMA Update, May 8, 2020, 1:56 p.m. ET) Department of Health and Human Services: 418 (-25) HHS personnel deployed to support COVID-19 response; Health and Medical Task Force (HMTF): 74 (-21) personnel deployed to 6 sites; Rapid Deployment Force (RDF): 103 deployed to 3 sites; Disaster Mortuary Operational Response Team (DMORT): 57 (-6) personnel deployed to 9 sites; IMT/Logistics: 44 personnel deployed to 7 sites; RECs/LNOs: 140 (+2) personnel deployed (HHS Update, May 8, 2020, 1:16 p.m. ET)				
Medical Care	Transport - NV: Pyramid Lake Paiute tribe submitted request to close State Route 446 to local traffic only; permit approved by NV Department of Transportation; tribe evaluating traffic control options (FEMA Region IX Update, May 7, 2020, 9:00 PT) - Intermodal volumes have dropped 17% since April, forcing rail carriers to cut capacity; largely a result of reduced maritime imports and will lead to fewer intermodal containers available; may cause freight delays/issues as demand rises and states reopen (NBEOC Update, May 7, 2020, 6:00 ET)				



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May 8, 2020 5:00 p.m. ET

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Operational Task Forces	
Medical Counter-Measure (MCM) Development	- Emergency Use Authorizations granted by FDA: 51 (+4) molecular diagnostic tests, 25 laboratory-developed tests, 12 antibody tests, and 3 repurposed treatments (chloroquine, hydroxychloroquine, and remdesivir) <i>(MCM TF Update, May 8, 2020, 8:19 a.m. ET)</i> - Clinical trial to test efficacy of hydroxychloroquine + famotidine for COVID-19: 228 (+21) patients enrolled at 6 sites <i>(MCM TF Update, May 8, 2020, 8:19 a.m. ET)</i>
Health Care Resilience (HCR)	- ACS Funding Summary: Establishment and Operationalization now available on ASPR TRACIE website <i>(HCR TF Update, May 8, 2020, 10:02 a.m. ET)</i> - Developing a long-term strategy for the decontamination systems for presentation to UCG next week <i>(HCR TF Update, May 8, 2020, 10:02 a.m. ET)</i> - Held Project Extension for Community Healthcare Outcomes (ECHO®) peer to peer sessions: ECHO® COVID-19 Clinical Rounds: Emergency Department, May 7, with 500+ participants; hosting PPE Conservation May 8 <i>(HCR TF Update, May 8, 2020, 10:02 a.m. ET)</i>
Lab Diagnostics (LD)	- Working to build out the Public Health Lab Supply/Demand Dashboard; estimated completion of version 1.0 on GeoHEALTH by May 9 <i>(LDTF Update, May 8, 2020 10:47 a.m. ET)</i> - Serology Research and Development working group hosted a workshop on May 7 with serology experts, researchers, and academics to understand aspects of COVID-19 serological diagnostics; as follow up, the group will produce a summary paper on key themes and next steps <i>(LDTF Update, May 8, 2020 10:47 a.m. ET)</i> - Briefed FEMA Regions and Regional Administrators afternoon of May 7 on states' testing strategy and provided information on technical assistance <i>(LDTF Update, May 8, 2020 10:47 a.m. ET)</i>
Community Based Testing Sites (CBTS)	166,463 (+3,626) samples collected at CBTS locations since March 20 <i>(CBTS TF Update, May 8, 2020, 9:50 a.m. ET)</i> 158,684 (+3,336) tests processed and received by call center since March 20; 25,009 (+276) positive, 1,771 (+51) indeterminate, and 131,904 (+3,009) negative <i>(CBTS TF Update, May 8, 2020, 9:50 a.m. ET)</i> 157,788 (+8,919) tests processed from Private-Partnership Testing Sites since April 5; 16,504 (+855) positive, 488 (+36) indeterminate, and 140,796 (+8,028) negative <i>(CBTS TF Update, May 8, 2020, 9:50 a.m. ET)</i>
Supply Chain Stabilization (SC)	Airbridge flights #123 and #124 landed in Los Angeles May 7; cargo for both flights is being assessed <i>(SC TF Update, May 8, 2020, 11:06 a.m. ET)</i>
Community Mitigation Measures (CMM)	- Provided technical assistance to Nebraska, Pennsylvania, Wisconsin, and Kansas as teams deploy in response to meatpacking plant outbreaks <i>(CMM TF Update, May 8, 2020, 10:05 a.m. ET)</i> - Held partner call with Georgia Institute of Technology to discuss accessibility of resources and solutions for the Deaf and Blind communities <i>(CMM TF Update, May 8, 2020, 10:05 a.m. ET)</i> - Held call with CDC Foundation Business Roundtable on community mitigation considerations for businesses <i>(CMM TF Update, May 8, 2020, 10:05 a.m. ET)</i>
Continuity of Operations (COOP)	- Over the past 24 hours 2 Wireless Emergency Alert (WEA) messages related to COVID-19 sent by local authorities; 1 stay-at-home/curfew reminder; 1 advertised cancellation of COVID-19 testing for the day due to severe weather <i>(COOP TF Update, May 8, 2020, 10:11 a.m. ET)</i> - Conducted Federal Reconstitution webinar on May 7; 200+ interagency partners participated <i>(COOP TF Update, May 8, 2020, 10:11 a.m. ET)</i> - Additional reconstitution briefing materials and exercise starter kits with FEMA External Affairs for clearance <i>(COOP TF Update, May 8, 2020, 10:11 a.m. ET)</i>
Data and Analysis (DA)	- Completed additional analysis assessing baseline dialysis machine usage and provided background on underlying models to the Supply Chain Taskforce on May 7 <i>(DA TF Update, May 8, 2020, 10:27 a.m. ET)</i> - Developing public facing CDC/ASPR COVID-19 Pandemic Planning Scenarios for analysts and public health officials to assess resources and mitigation options; expected completion May 10 <i>(DA TF Update, May 8, 2020, 10:27 a.m. ET)</i> - Integrating taskforce models to HHS Protect platform; integration will increase accessibility and allow models to run as data is updated; modeling review scheduled for May 11 <i>(DA TF Update, May 7, 2020, 9:46 a.m. ET)</i>

Title 32 States by State and Territories											
41,244 (+155) Activated				State Active Duty (SAD): 826 (-11)				T32 Approved: 48			
				T-32 502(f): 40,418 (+166)				T32 Requested: 4			
NGS Update, May 8, 2020, 12:27 p.m. ET											
State / Territor ▼	SAD	T-32 502(f)	Title 32 Request States	State / Territor ▼	SAD	T-32 502(f)	Title 32 Request States	State / Territor ▼	SAD	T-32 502(f)	Title 32 Request States
AK	18	31	WH AUTHORIZED & APPROVED**	KY	0	685	WH AUTHORIZED & APPROVED**	OH	27	300	WH AUTHORIZED & APPROVED**
AL	0	686	WH AUTHORIZED & APPROVED**	LA	0	1043	WH AUTHORIZED & APPROVED**	OK	0	360	WH AUTHORIZED & APPROVED**
AR	38	0	REQUESTED	MA	121	1633	WH AUTHORIZED & APPROVED**	OR	0	178	WH AUTHORIZED & APPROVED**
AZ	0	317	WH AUTHORIZED & APPROVED**	MD	5	397	WH AUTHORIZED & APPROVED**	PA	54	853	WH AUTHORIZED & APPROVED**
CA	130	1543	WH AUTHORIZED & APPROVED**	ME	0	38	WH AUTHORIZED & APPROVED**	PR	41	742	WH AUTHORIZED & APPROVED**
CO	0	363	WH AUTHORIZED & APPROVED**	MI	0	857	WH AUTHORIZED & APPROVED**	RI	10	823	WH AUTHORIZED & APPROVED**
CT	6	811	WH AUTHORIZED & APPROVED**	MN	14	0	REQUESTED	SC	11	534	WH AUTHORIZED & APPROVED**
DC	0	308	WH AUTHORIZED & APPROVED**	MO	0	856	WH AUTHORIZED & APPROVED**	SD	81	0	REQUESTED
DE	0	74	WH AUTHORIZED & APPROVED**	MS	1	436	WH AUTHORIZED & APPROVED**	TN	13	773	WH AUTHORIZED & APPROVED**
FL	7	2121	WH AUTHORIZED & APPROVED**	MT	0	133	WH AUTHORIZED & APPROVED**	TX	0	2878	WH AUTHORIZED & APPROVED**
GA	0	2537	WH AUTHORIZED & APPROVED**	NC	0	877	WH AUTHORIZED & APPROVED**	UT	38	0	N/A
GU	1	165	WH AUTHORIZED & APPROVED**	ND	0	224	WH AUTHORIZED & APPROVED**	VA	0	503	WH AUTHORIZED & APPROVED**
HI	0	1218	WH AUTHORIZED & APPROVED**	NE	2	358	WH AUTHORIZED & APPROVED**	USVI	0	146	WH AUTHORIZED & APPROVED**
IA	2	834	WH AUTHORIZED & APPROVED**	NH	2	531	WH AUTHORIZED & APPROVED**	VT	1	216	WH AUTHORIZED & APPROVED**
ID	0	0	REQUESTED	NJ	0	801	WH AUTHORIZED & APPROVED**	WA	0	315	WH AUTHORIZED & APPROVED**
IL	35	338	WH AUTHORIZED & APPROVED**	NM	3	566	WH AUTHORIZED & APPROVED**	WI	1	1220	WH AUTHORIZED & APPROVED**
IN	0	1330	WH AUTHORIZED & APPROVED**	NV	0	357	WH AUTHORIZED & APPROVED**	WV	27	463	WH AUTHORIZED & APPROVED**
KS	0	627	WH AUTHORIZED & APPROVED**	NY	11	3047	WH AUTHORIZED & APPROVED**	WY	0	0	N/A
**Title 32 has been authorized and approved by the Secretary of Defense.											

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Senior Leadership Brief COVID-19

May 8, 2020 5:00 p.m. ET

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PPE and Ventilator Quantities by Resource Subcategory and Status

Resource	Resource Subcategory	Obligated ¹	In Transit ²	Delivered ³	Total
Personal Protective Equipment (PPE)	Coveralls	11,420		689,579	700,999
	Face Shields	150,263	292,900	7,138,378	7,581,541
	Gloves	13,467,000	6,190,800	51,879,714	71,537,514
	Goggles	800		5,030	5,830
	K90 Masks	185,425	1,615,700	1,961,500	3,762,625
	N95 Respirators	18,356,612	11,940,540	55,837,328	86,134,480
	PAPR	1,100	694	543	2,337
	Surgical Gowns	74,860	41,986	5,159,674	5,276,520
	Surgical Masks	3,615,016	13,500	32,954,691	36,583,207
	Tychem Suits			81,649	81,649
	Tyvek Suits	800	1,375	7,075	9,250
Durable Medical Equipment	Ventilators		10	10,624	10,634
Total		35,863,296	20,097,505	155,725,785	211,686,586

As of 5/7/2020 6:00 p.m.

Region	State/Location	EMAC	Federally Supported		Total Federal Vents (SNS + DoD)	SNS Status
			SNS	DoD		
1	CT		350		350	Delivered
1	MA		400		400	Delivered
1	RI		100		100	Delivered
2	NY	100	2,140		2,140	Delivered
2	NYC		2,400		2,400	Delivered
2	NJ	100	1,050	500	1,550	Delivered
3	MD	50	470		470	Delivered
3	DE	50	50		50	Delivered
3	DC	50	200		200	Delivered
4	FL		200		200	Delivered
4	GA		150		150	Delivered
5	IL	100	310		310	Delivered
5	Chicago		310		310	Delivered
5	MI		700		700	Delivered
5	IN		110		110	Delivered
6	LA		350		350	Delivered
6	BOP		20		20	Delivered
6	Navajo Nation		50		50	Delivered
6	Cherokee Nation (OK)		10		10	Delivered
8	CO		100		100	Delivered
9	CA		0		0	N/A
9	LA County		170		170	Delivered
9	GU		55		55	Delivered
9	NV	50	150		150	Delivered
9	AZ		100		100	Delivered
9	CNMI		25		25	Delivered
9	Federated States of Micronesia		30		30	Delivered
9	Palau		10		10	Delivered
9	Republic of the Marshall Islands		10		10	Delivered
9	American Samoa		10		10	En Route
10	AK		60		60	Delivered
10	OR		0		0	Transferred 140 to NY
10	WA		73		73	WA returned 427 vents to the SNS
Total		500	10,163	500	10,663	

As of 5/8/2020 4:14 p.m.

DHS-20-1106-A-000186

Stay at Home Order Expiration by State/Territory, as of May 8, 2020 3:00 p.m. EDT								
State / Territory	Exp Date	Notes	State / Territory	Exp Date	Notes	State / Territory	Exp Date	Notes
AL	5/15		KS	Exp.	Phased reopening with local restrictions	OH	5/29	SAH extended
AK	Exp.	Phased reopening underway	KY	Exp.	Phased reopening underway	OK	Exp.	Phased reopening with local restrictions underway
AS	5/31	SAH extended	LA	5/15		OR		No official expiration date; phased reopening will begin 5/15
AZ	5/15	Phased reopening underway	ME	5/31	Phased reopening underway	PA	5/8	
AR		No statewide SAH order issued; phased reopening underway at local level	MD		Until the emergency concludes, but some restrictions being lifted	PR	5/24	
CA		No official expiration date; phased reopening underway as of 5/8	MA	5/18		RI	5/8	Phased reopening underway
CO	Exp.	Phased reopening underway, excluding certain counties	MI	5/28	SAH extended	SC	Exp.	Phased reopening underway
CNMI		SAH until the emergency concludes	MN	5/18	SAH extended	SD		No statewide SAH order issued; phased reopening underway at local level
CT	5/20	Or until terminated; phased reopening following expiration of SAH order	MS	Exp.	Phased reopening underway	TN	Exp.	Phased reopening underway
DE	5/15	Or until health threat eliminated	MO	Exp.	Phased reopening underway	TX	Exp.	Phase 1 of phased reopening underway
DC	5/15	Or until date of any emergency date extension	MT	Exp.	Phased reopening underway at local level	USVI	6/1	Phased reopening following SAH expiration
FL	Exp.	Phased reopening underway	NE		No statewide SAH order issued; phased reopening underway at local level	UT		No statewide SAH order issued; phased reopening underway at local level
GA	Exp.	Phased reopening underway	NV	5/15	Phased reopening underway beginning 5/9	VT	5/15	Phased reopening underway
GU	5/30	SAH extended	NH	5/31	SAH extended	VA	6/10	
HI	5/31	Phased reopening as of 5/7 with local restrictions	NJ		Until terminated	WA	Exp.	Phased reopening underway
ID	Exp.	Phased reopening underway	NM	5/15	SAH extended	WV		Phased reopening underway
IL	5/29	SAH extended	NY	5/15		WI	5/26	New changes to SAH lift some restrictions
IN	Exp.	Phased reopening underway	NC	5/8		WY		No statewide SAH order issued; phased reopening underway at local level
IA		No statewide SAH order issued; phased reopening underway at local level	ND		No statewide SAH order issued; phased reopening underway at local level			

* Source: Based on State-at-Home Orders from State websites



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Senior Leadership Brief COVID-19

May 8, 2020 5:00 p.m. ET

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USG COVID-19 Response

USG Medical Resources, Force Laydown and County Hotspots

Map produced by ASPR GIS
Data sources: CDC, Daily F1 COVID-19 Administrator Brief

Map as of: 08May2020T0940
Data as of: 07MAY2020

(1 20200121 1 589)

REGION X

Deployed Personnel: 1,432

- HHS: 11
- DoD: 1,221
- FEMA: 182

ACS (2)

- Total Beds: 93
- USACE: 93

Ventilators (133)

REGION IX

Deployed Personnel: 6,783

- HHS: 75
- DoD: 6,414
- FEMA: 251

ACS (20)

- Total Beds: 2,700
- SNS FMS 250 (5): 1,250
- SNS FMS 125 (4): 500
- SNS FMS 50 (7): 350
- USACE: 600

Ventilators (560)

USNS Mercy: 175 Beds

REGION VIII

Deployed Personnel: 1,150

- HHS: 25
- DoD: 983
- FEMA: 131

ACS (4)

- Total Beds: 1,785
- SNS FMS 250 (1): 250
- USACE: 1,535

Ventilators (100)

USG Total

Deployed Personnel: 50,094

- CDC: 159
- HHS: 466
- DoD: 45,733
- FEMA: 3,203
- VA: 462

Equipment / Supplies

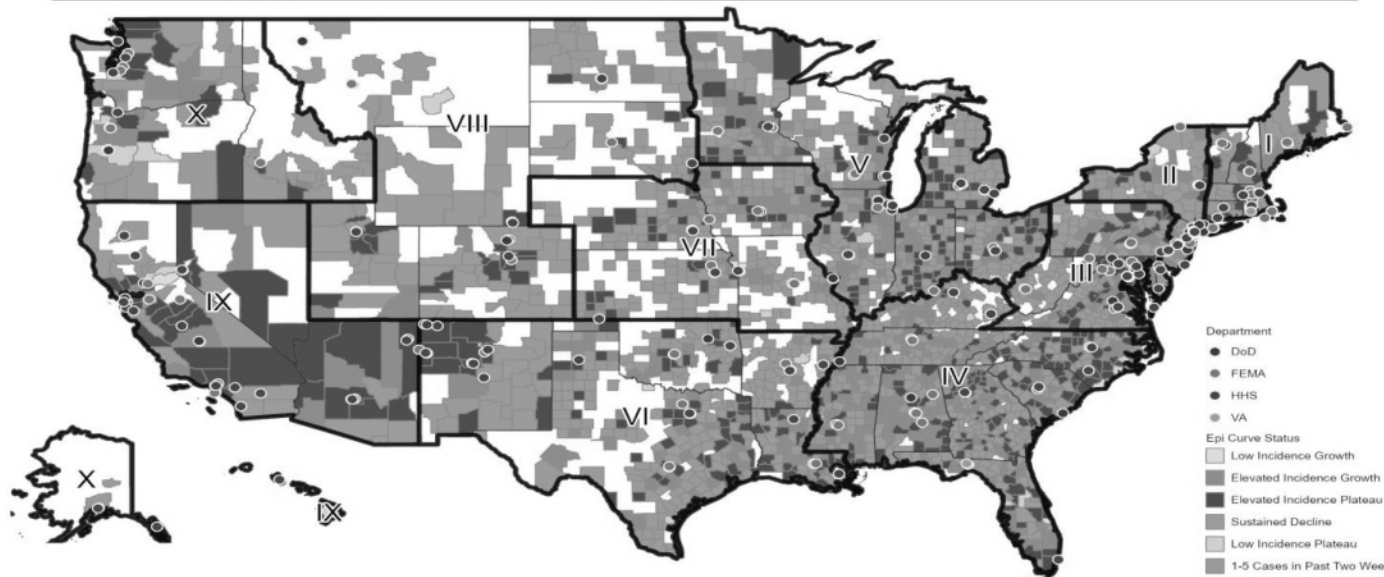
- SNS FMS 250 (30)
- SNS FMS 125 (4)
- SNS FMS 50 (9)
- ASPR Rx (3)
- DoD Field Hospital (1)

ACS (75)

- Total Beds: 23,783
- SNS Beds: 8,450
- DoD Beds: 284
- USACE: 15,049

Ventilators (10,663)

USNS Medical Ship (1)



REGION I

Deployed Personnel: 4,975

- HHS: 25
- DoD: 4,698
- FEMA: 228

ACS (3)

- Total Beds: 1,000
- SNS FMS 250 (3) Beds: 750

Ventilators (850)

REGION II

Deployed Personnel: 6,986

- HHS: 81
- DoD: 6,502
- FEMA: 282

ACS (14)

- Total Beds: 7,043
- SNS FMS 250 (8): 2,000
- SNS FMS 50 (1): 50
- DoD Field Hospital (1): 284
- USACE: 4,709

Ventilators (6,090)

- DoD Ventilators (500)

Miscellaneous

- ASPR Rx (3)
- DMORT (1)

REGION V

Deployed Personnel: 5,804

- HHS: 53
- DoD: 5,554
- FEMA: 185

ACS (11)

- Total Beds: 7,159
- SNS FMS 250 (4): 1,000
- USACE: 6,159

Ventilators (1,430)

REGION IV

Deployed Personnel: 9,263

- HHS: 32
- DoD: 8,905
- FEMA: 196
- VA: 127

ACS (3)

- Total Beds: 1,101
- SNS FMS 250 (1): 250
- USACE: 851

Ventilators (350)

REGION III

Deployed Personnel: 5,332

- HHS: 253
- DoD: 3,574
- FEMA: 1,437
- National Capital Region: 1,177

ACS (7)

- Total Beds: 1,449
- SNS FMS 250 (4): 1,000
- USACE: 449

Ventilators (720)

REGION VII

Deployed Personnel: 2,943

- HHS: 16
- DoD: 2,734
- FEMA: 140

ACS (1)

- Total Beds: 118
- USACE: 118

REGION VI

Deployed Personnel: 5,391

- HHS: 54
- DoD: 5,130
- FEMA: 171

ACS (10)

- Total Beds: 1,585
- SNS FMS 250 (4): 1,000
- SNS FMS 50 (1): 50
- USACE: 535

Ventilators (430)

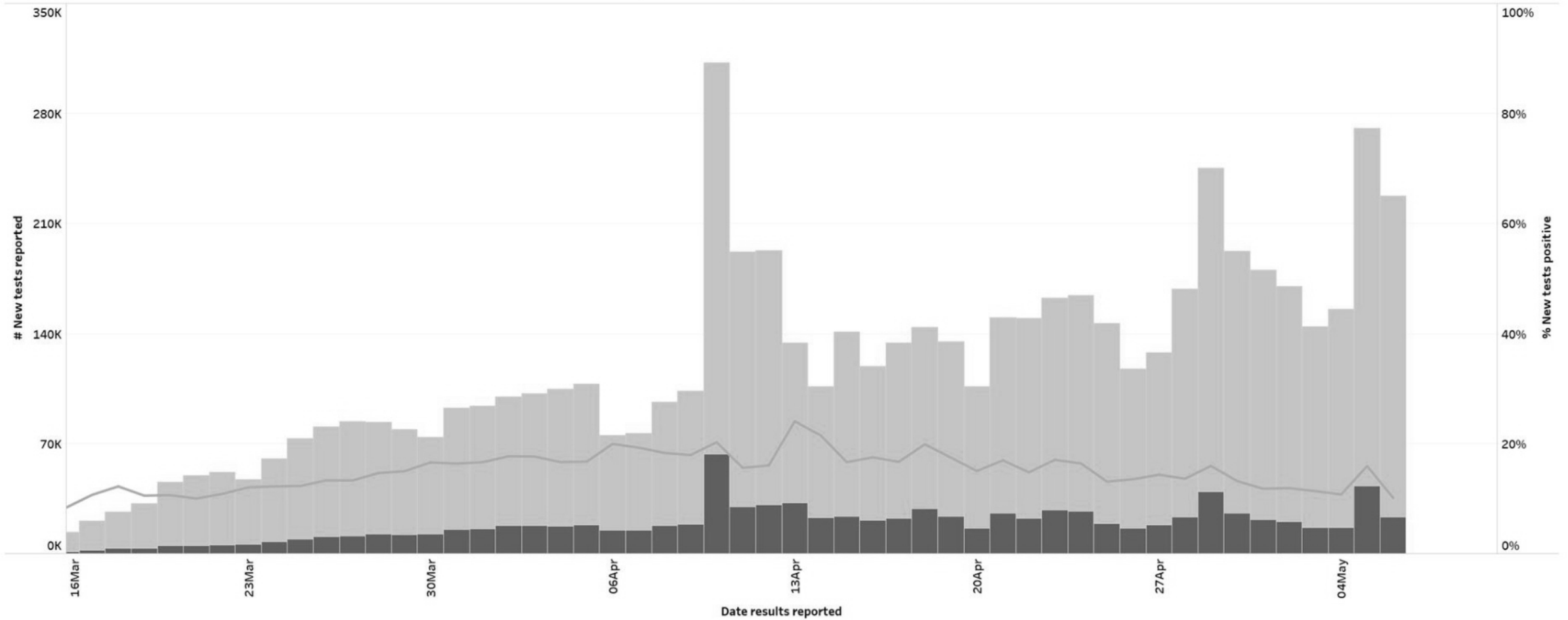
AMERICAN
OVERSIGHT

DHS-20-1106-A-000188

New COVID-19 tests with a reported result as either positive (bar) or negative (bar)
and percent of tests positive (line)

Total tests through 06May2020 = 6,333,221 (15.4% positive)

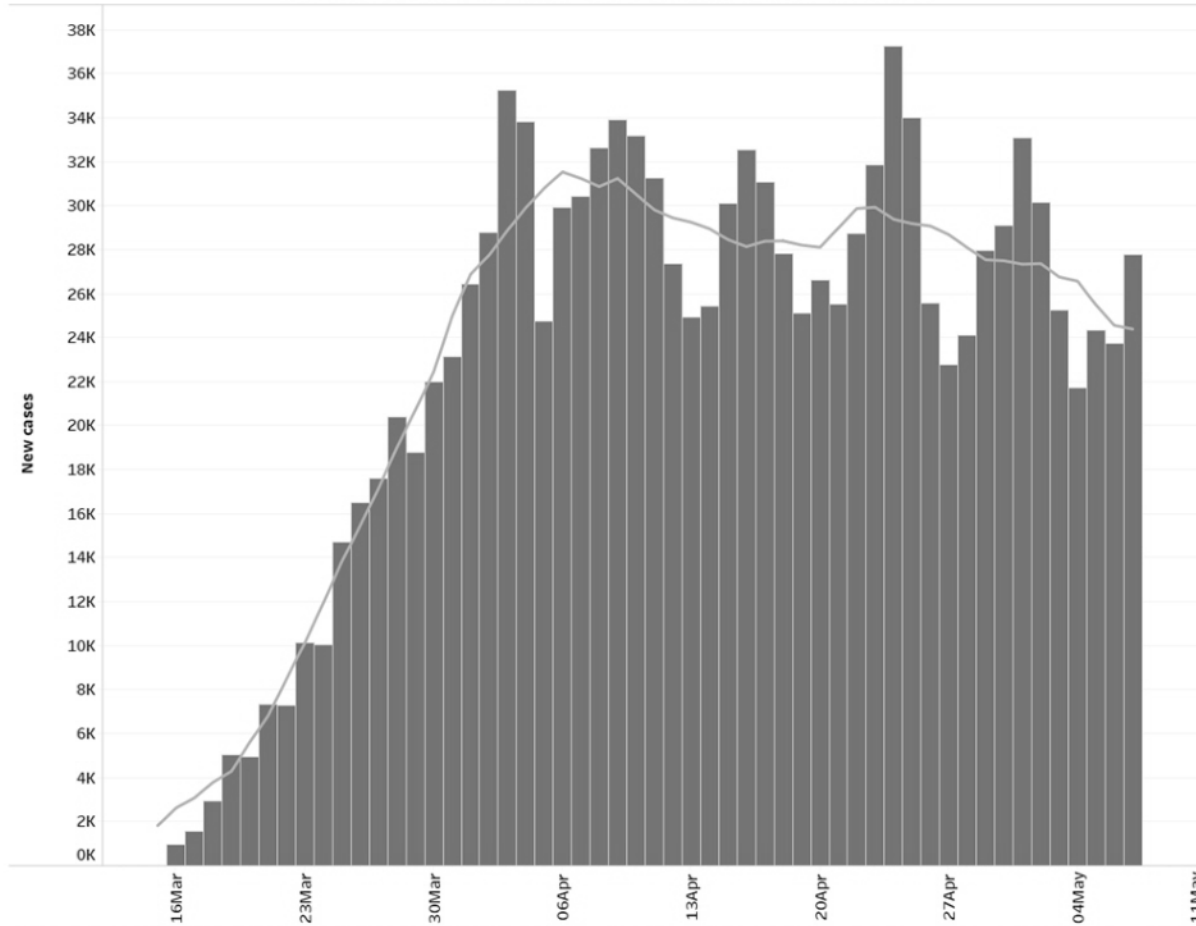
SOURCE: Hospital, commercial, and public health labs, through 06May2020



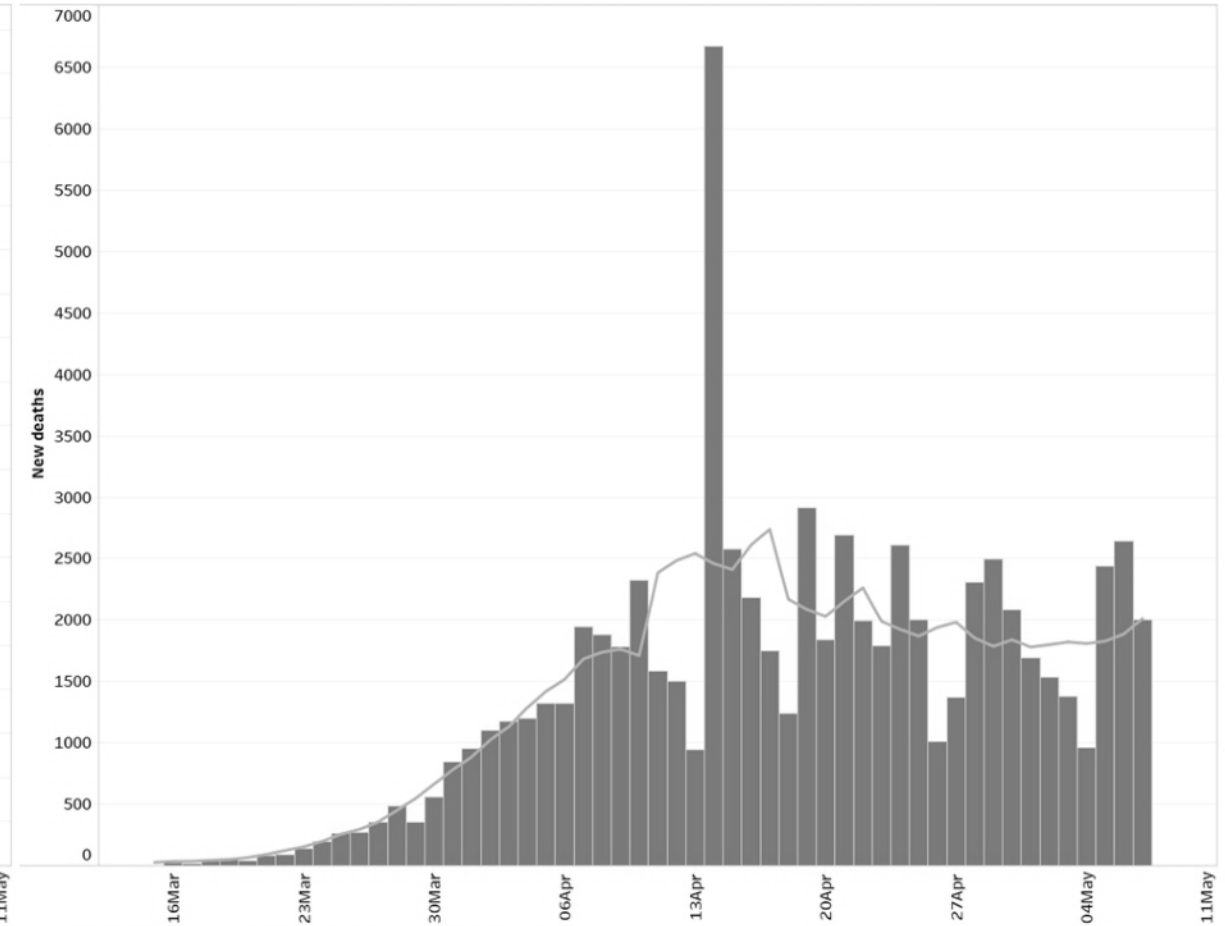
Analyst note: Tests include those that had a positive or negative tests and do not include tests with an inconclusive result.

Produced by the ASPR Operational Data and Analytics Branch

New COVID-19 cases for the United States
Total cases through 03May2020 = 1,251,087
Cases before 16Mar2020 are not shown (n = 3,784)
SOURCE: USAFacts (through 7May2020) and JHU (through 7May2020)



New COVID-19 deaths for the United States
Total deaths through 03May2020 = 75,123
Deaths before 16Mar2020 are not shown (n = 71)
SOURCE: USAFacts (through 7May2020) and JHU (through 7May2020)



Analyst notes: The charts display data since 16Mar2020. The grey lines provide the number of new cases and deaths as a smoothed average of data points up to 3 days before and after each date.

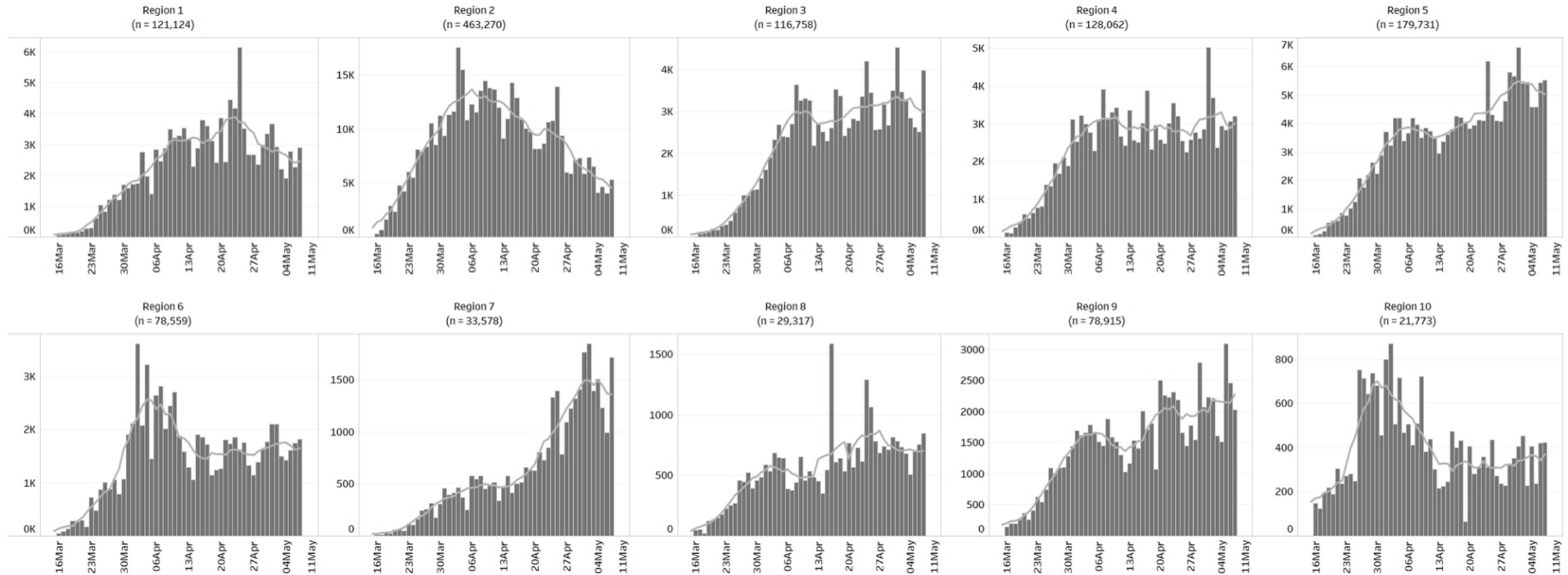
Produced by the ASPR Operational Data and Analytics Branch

New COVID-19 cases for the United States (cumulative cases in parentheses)

Total cases through 03May2020 in the United States = 1,251,087

Cases before 16Mar2020 are not shown (n = 3,784)

SOURCE: USAFacts (through 7May2020) and JHU (through 7May2020)



Analyst notes: The y-axis of the graphs varies. The charts display data since 16Mar2020. The grey lines provide the number of new cases and deaths as a smoothed average of data points up to 3 days before and after each date.

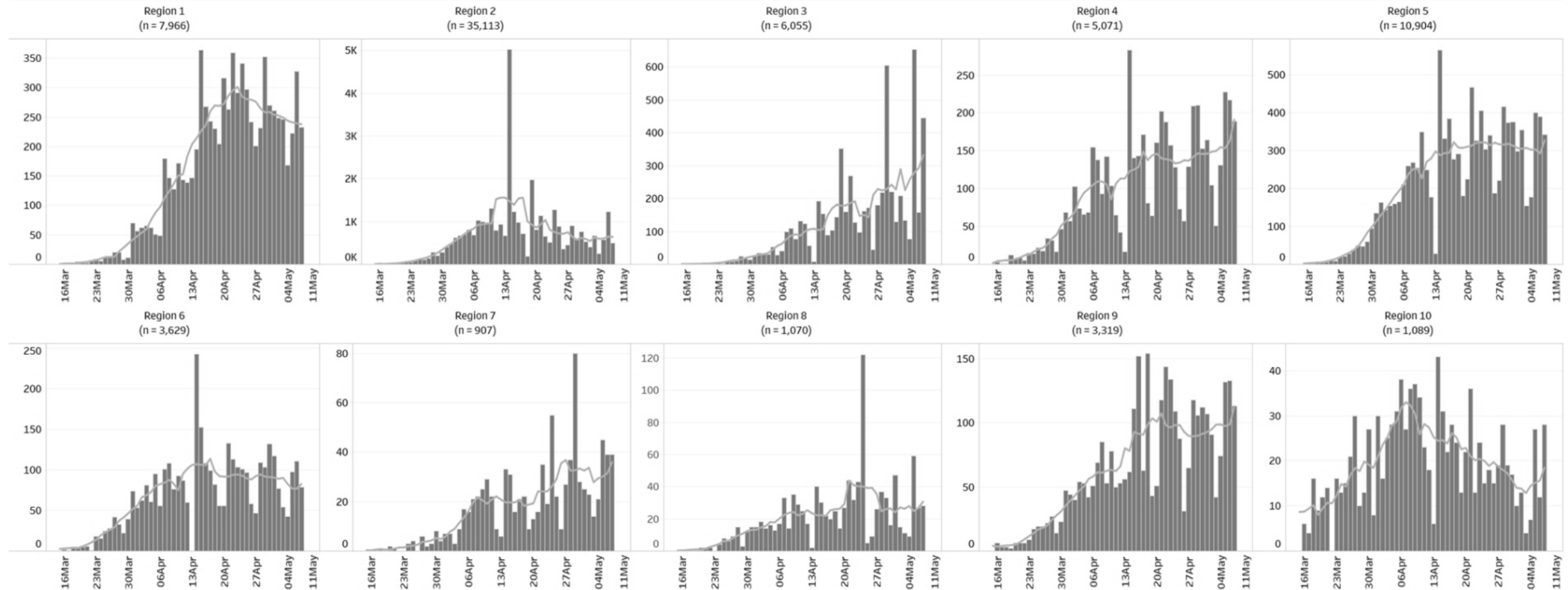
Produced by the ASPR Operational Data and Analytics Branch

New COVID-19 deaths for the United States (cumulative deaths in parentheses)

Total deaths through 03May2020 in the United States = 75,123

Deaths before 16Mar2020 are not shown (n = 71)

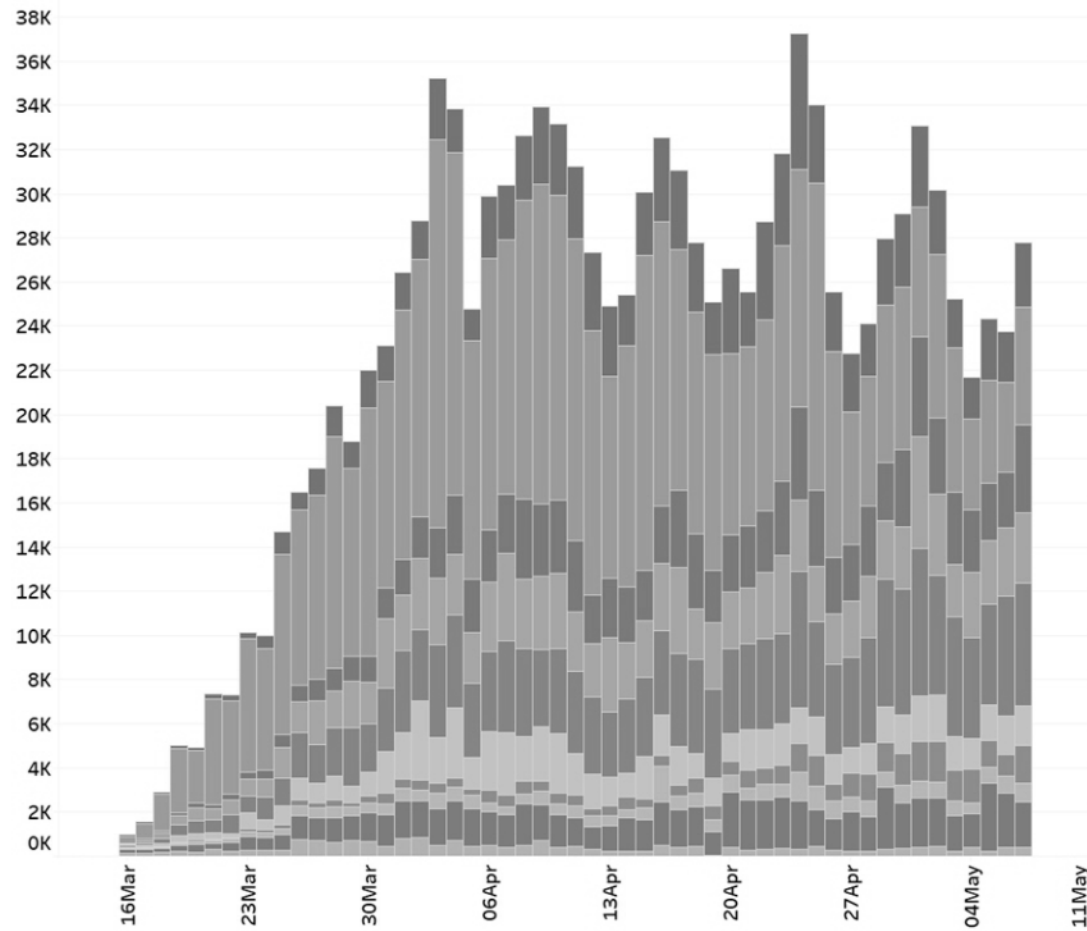
SOURCE: USAFacts (through 7May2020) and JHU (through 7May2020)



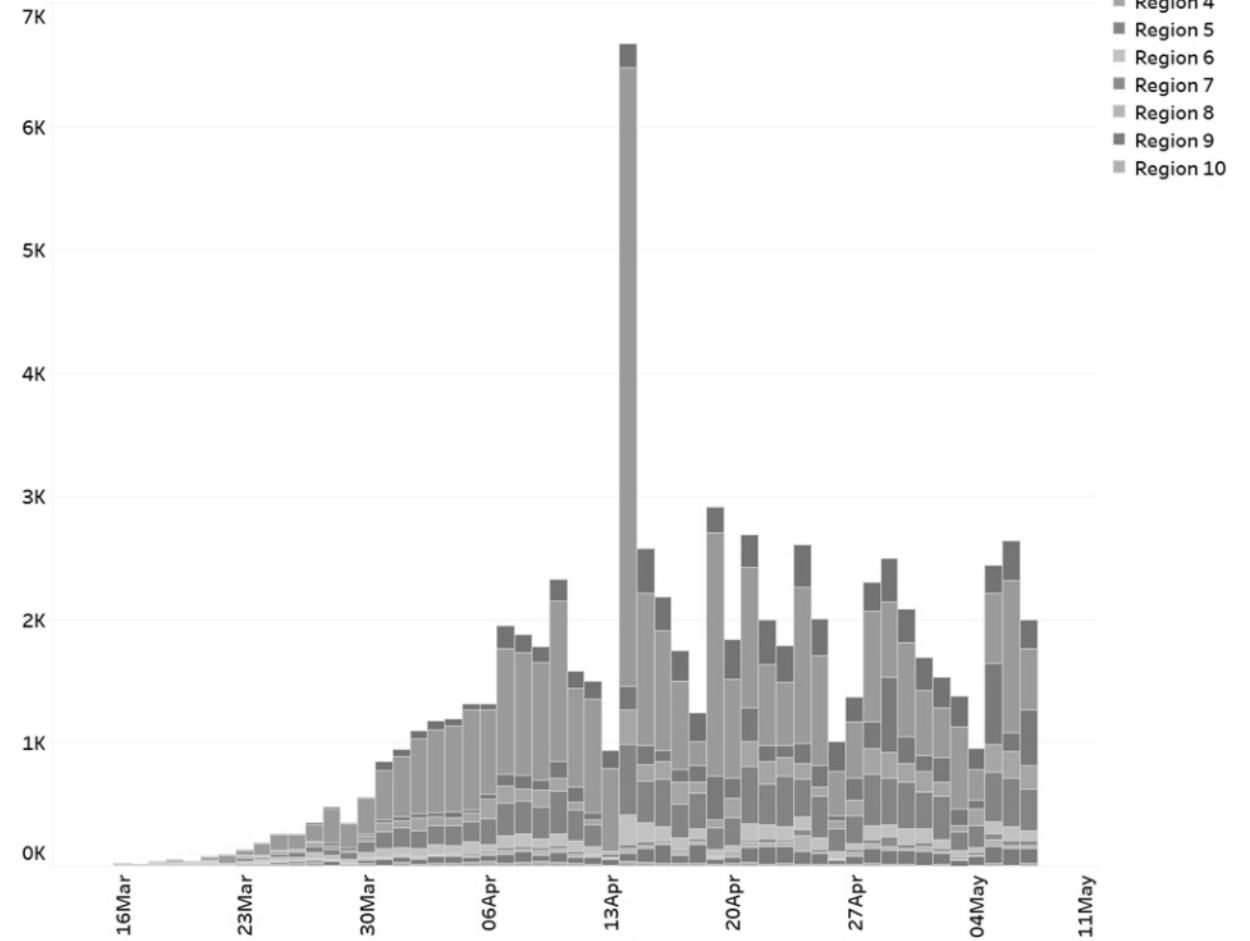
Analyst notes: The y-axis of the graphs varies. The charts display data since 16Mar2020. The grey lines provide the number of new cases and deaths as a smoothed average of data points up to 3 days before and after each date.

Produced by the ASPR Operational Data and Analytics Branch

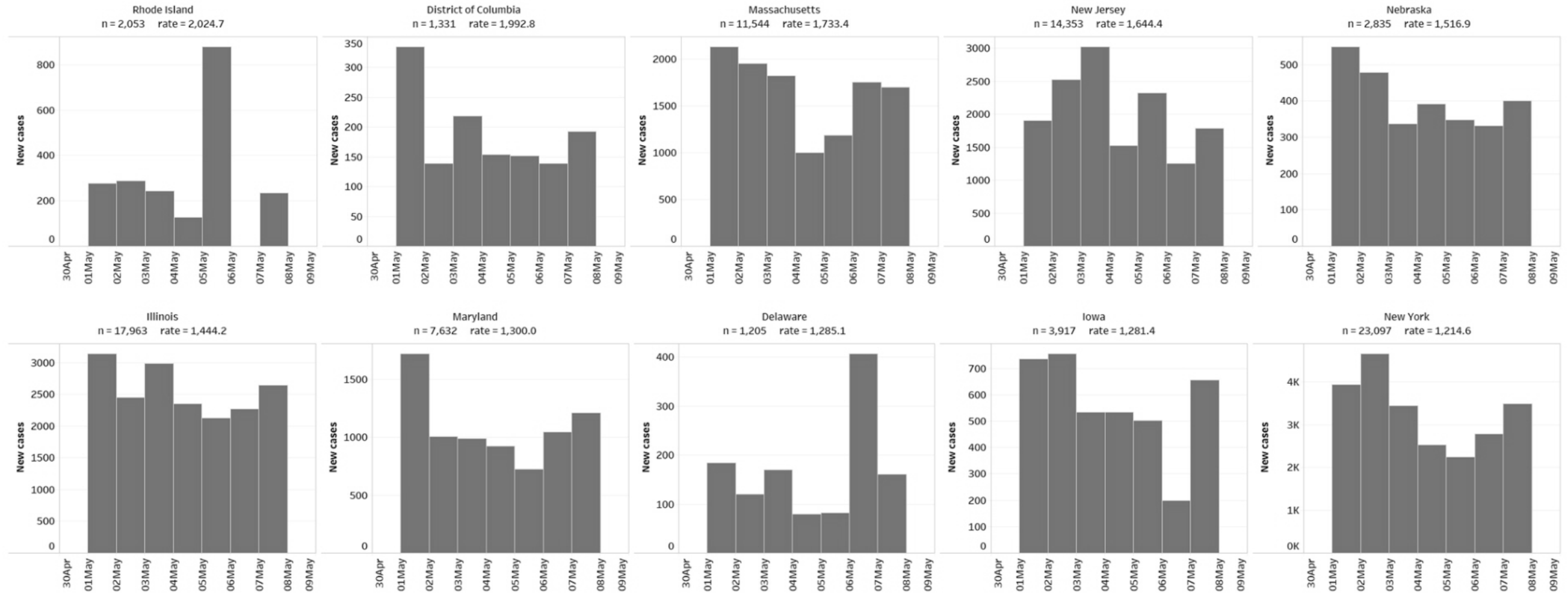
New COVID-19 cases for the United States, by FEMA region
 Total cases through 03May2020 = 1,251,087
 Cases before 16Mar2020 are not shown (n = 3,784)
 SOURCE: USAFacts (through 7May2020) and JHU (through 7May2020)



New COVID-19 deaths for the United States, by FEMA region
 Total deaths through 03May2020 = 75,123
 Deaths before 16Mar2020 are not shown (n = 71)
 SOURCE: USAFacts (through 7May2020) and JHU (through 7May2020)



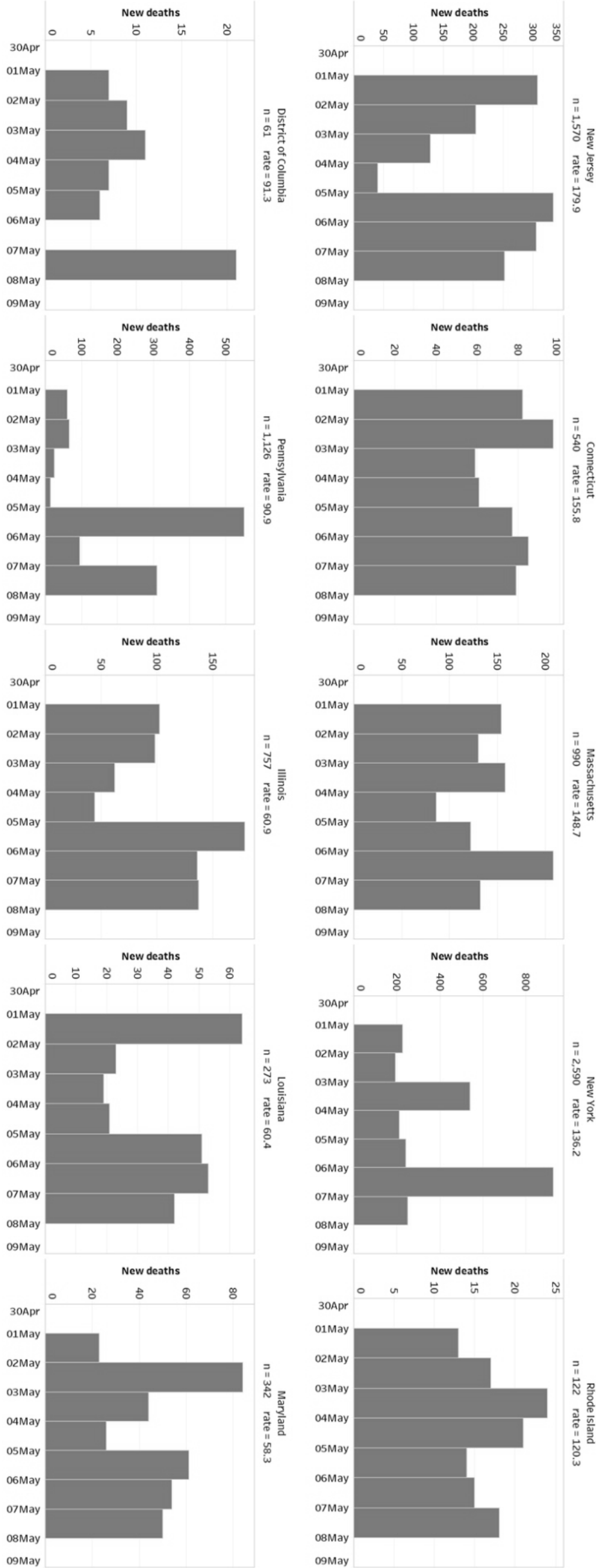
Number and rate (per 1M person) of COVID-19 cases in the past 7 days
among the top 10 U.S. locations with the highest 7-day case rates
SOURCE: USAFacts (through 7May2020) and JHU (through 7May2020) and U.S. Census (2018)



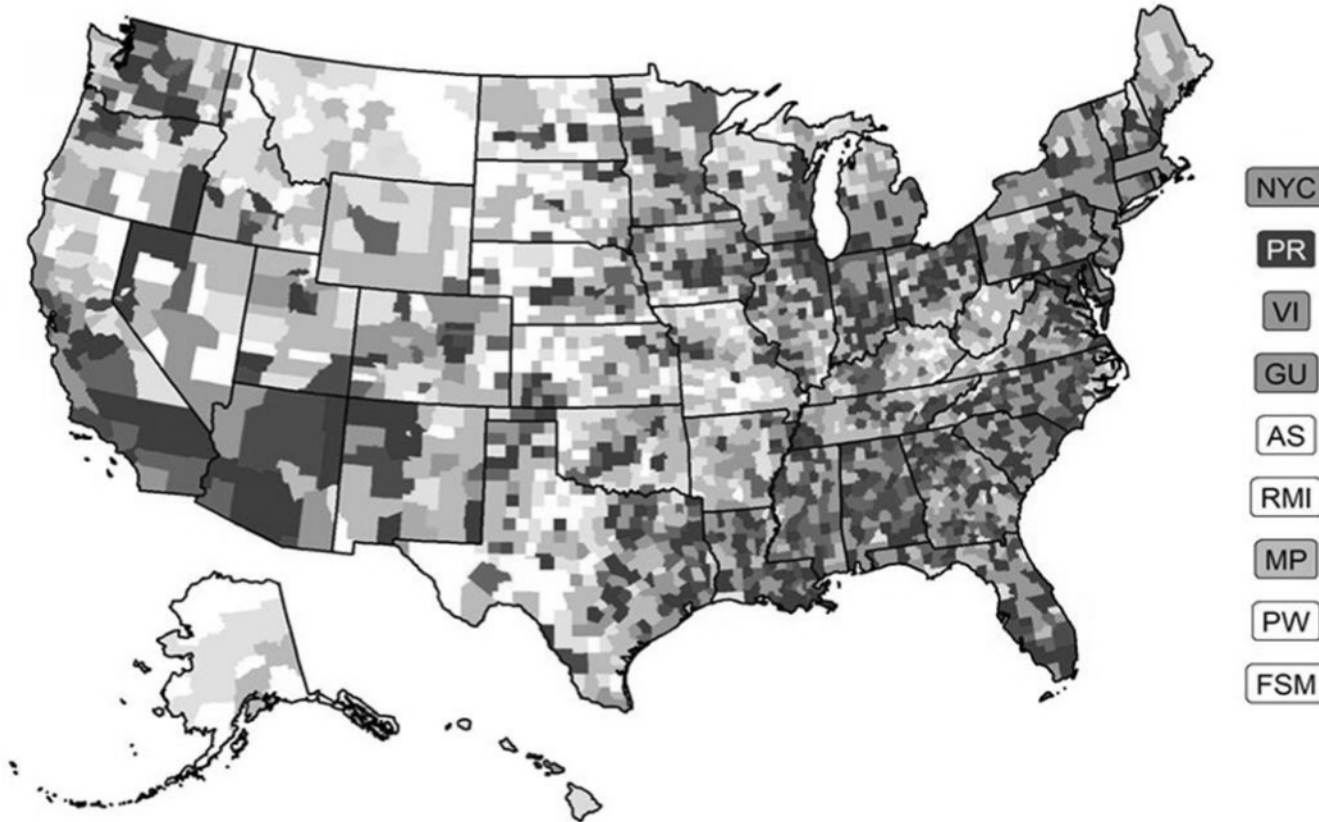
Analyst note: The y-axis of the graphs varies.

Produced by the ASPR Operational Data and Analytics Branch

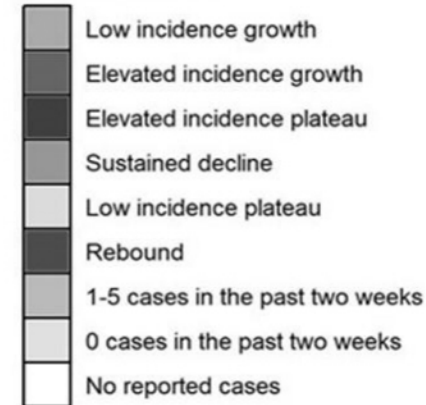
Number and rate (per 1M person) of COVID-19 deaths in the past 7 days among the top 10 U.S. locations with the highest 7-day death rates
SOURCE: USAFacts (through 7May2020) and JHU (through 7May2020) and U.S. Census (2018)



Coronavirus Disease 2019 (COVID-19)
Current epidemic curve status*,
by U.S. County, 06 May 2020



Current status



Purpose of this map

Provides the most detailed view into both the burden of illness and the trajectory of new illnesses

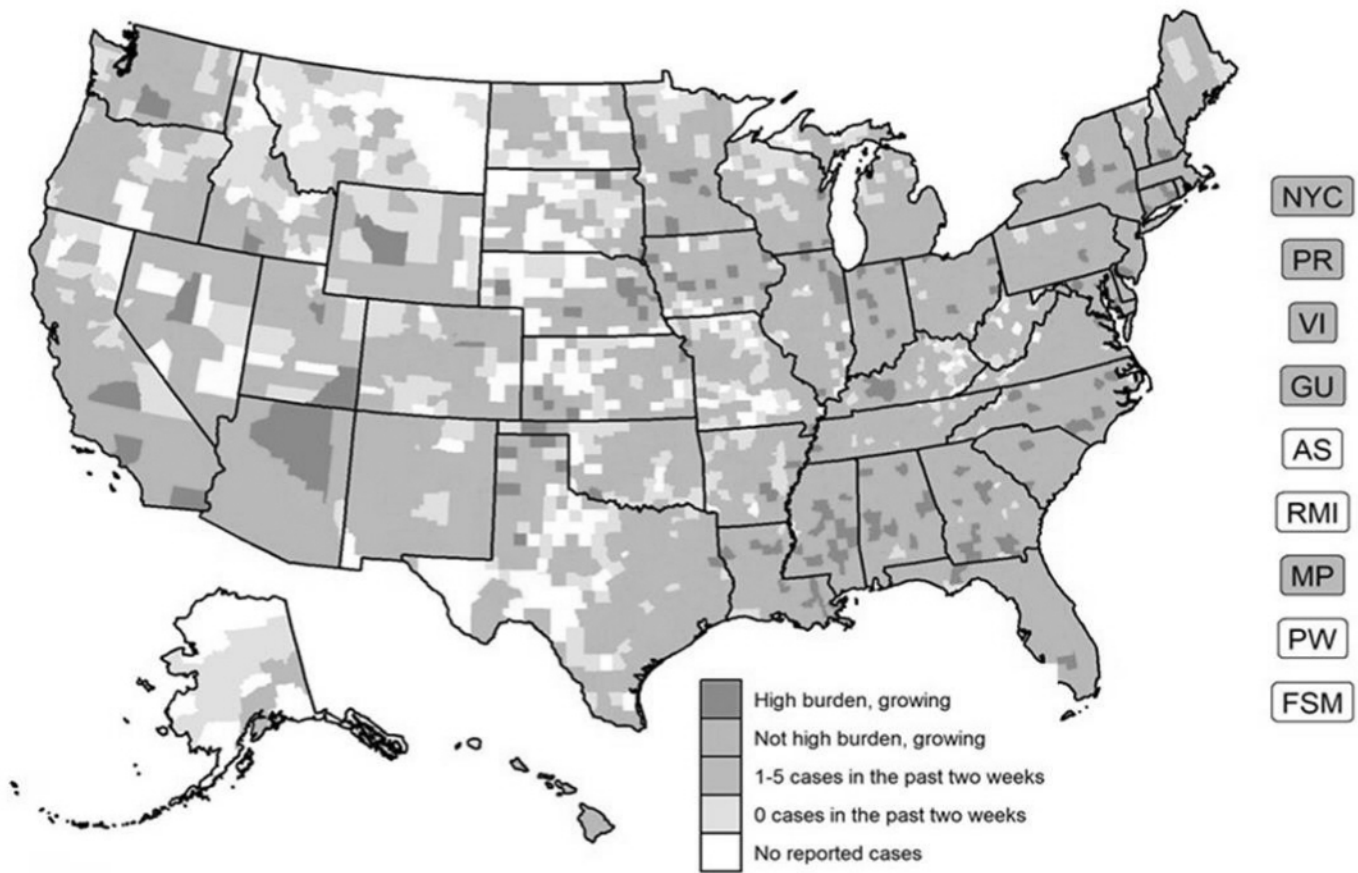
Main Findings

- There remains a large number of counties whose burden continues to grow or are in an elevated incidence plateau, including in the Great Lakes region and parts of the Southeast.
- The goal is to have all communities be represented in the lighter colors, demonstrating little to no disease burden and no increase in trajectory

*Categorized according to the slope of a spline fit to the 3 day moving average of daily incidence and the number of new cases (per 100,000) in the past 2 weeks. Elevated incidence is defined as >10 new cases per 100,000 in the past two weeks.

Sources: USAFacts, US Census

Coronavirus Disease 2019 (COVID-19)
High burden and growing numbers of new cases per 100,000
in the past 2 weeks, by U.S. county, 22 April 2020 - 06 May 2020



Purpose of this map
Identifies "areas of concern" where a county's disease burden is high and still growing

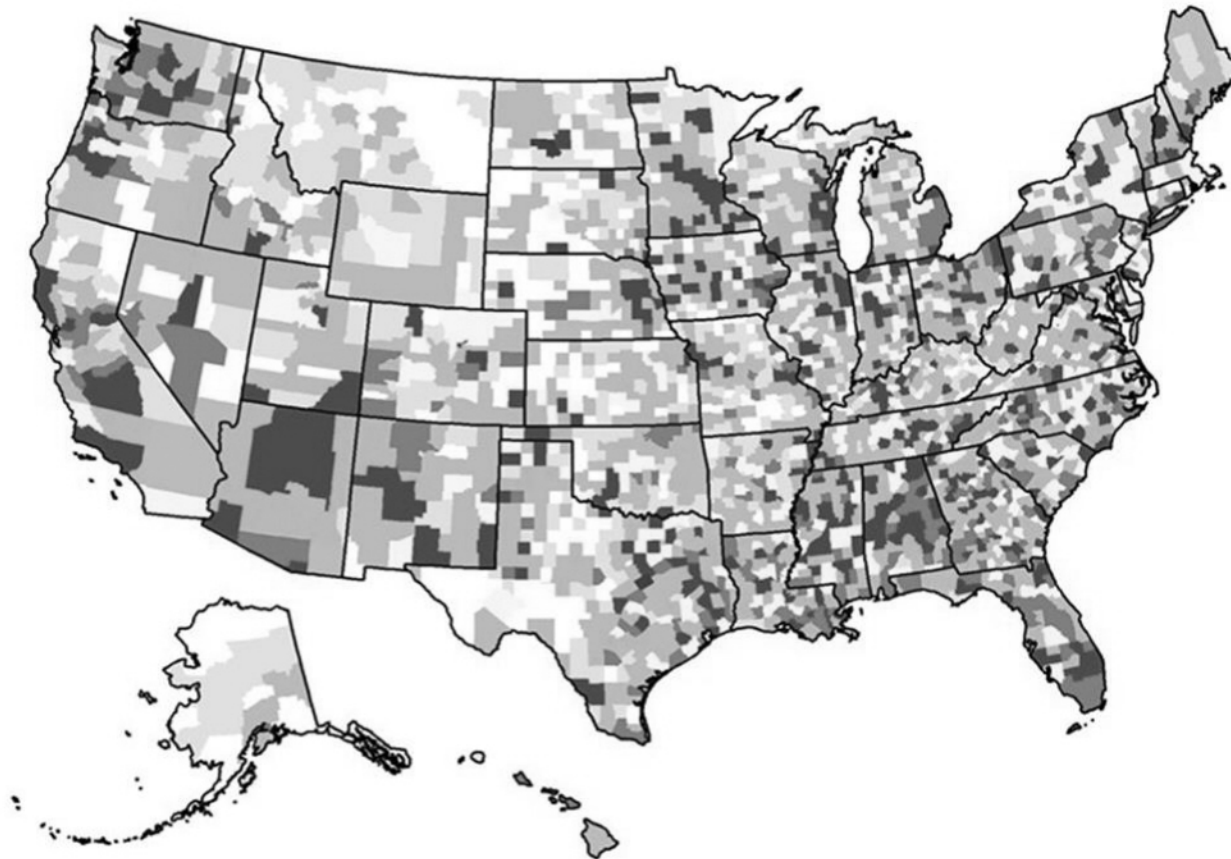
Main Findings
▪ Counties with the greatest burden and who are still demonstrating growth are listed in the table below.

Counties in the high burden, growing category
(Top 10 with the highest number of cases
per 100,000 in the past 2 weeks)

County name, State	No. of new cases in past 2 weeks	2-week incidence (per 100,000)	Change in daily incidence (per 100,000 per day)
Lincoln, AR	371	2772.2	12.5
Colfax, NE	287	2637.6	31.6
Dawson, NE	532	2243.9	9.9
Muhlenberg, KY	374	1215.3	70.3
Hancock, GA	99	1185.9	17.7
Texas, OK	240	1173.3	8.9
Carroll, MS	87	877.8	12.0
Liberty, FL	68	804.1	7.0
Leavenworth, KS	633	778.1	11.1
Platte, NE	249	746.3	6.6

Notes: High burden, growing counties are counties with >100 new cases per 100,000 in the past 2 weeks and a slope of at least 0.1 per 100,000 per day.
Sources: USAFacts, US Census

Coronavirus Disease 2019 (COVID-19) Current consecutive days of downward trajectory, by U.S. County, 06 May 2020



NYC
PR
VI
GU
AS
RMI
MP
PW
FSM

Days in downward trajectory*



Purpose of this map

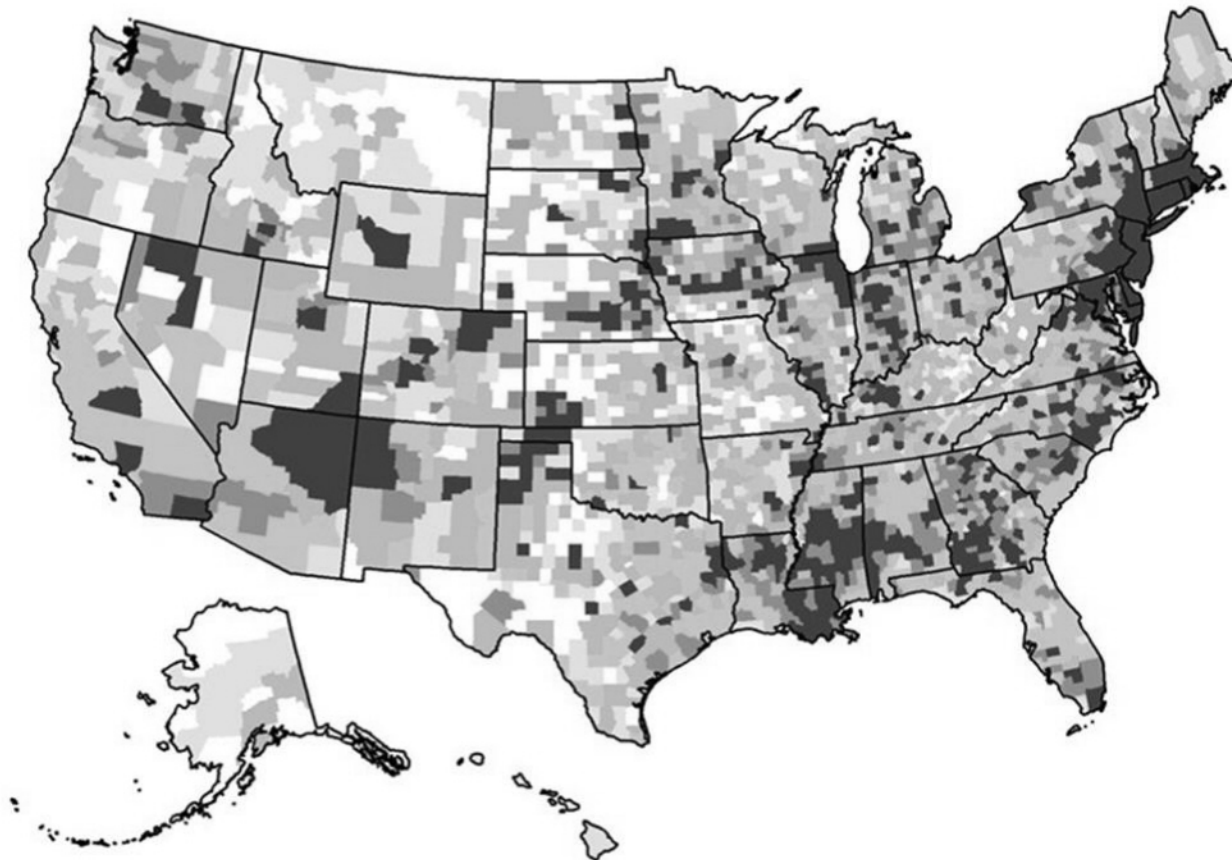
Identifies progress in counties towards achieving a downward trajectory in case incidence over a 14-day period

Main Findings

- 465 counties have been identified as having 14 or more consecutive days of improvement and are indicated in the blue colors (excludes counties with 0-5 cases in the past 2 weeks); median population size: 60,833 (range: 2,887 to 8,398,748)
- This method is still being refined to best characterize progress towards achieving a downward trajectory in daily case incidence over a 14-day period, and the results provided should be interpreted with caution when determining mitigation strategies to use

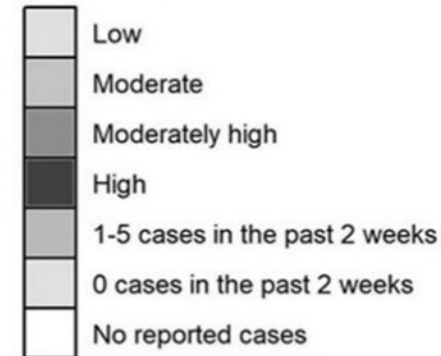
* The number of days in a downward trajectory represents the number of consecutive days for which the jurisdiction experienced either a negative slope or a low incidence plateau (two-week incidence ≤ 10 cases per 100,000 and slope > -0.1 and ≤ 0.1).
Jurisdictions are allowed a 5 day grace period of departure from downward trajectory before the downward trajectory is considered over.
Sources: USAFacts, US Census

Coronavirus Disease 2019 (COVID-19)
Number of New Cases per 100,000 in the past 2 weeks,
by U.S. County, 22 April 2020 - 06 May 2020



NYC
 PR
 VI
 GU
 AS
 RMI
 MP
 PW
 FSM

Incidence



Purpose of this map

Describes recent incidence of COVID-19 infection to capture the potential burden of currently ill people who may be infectious and/or accessing healthcare

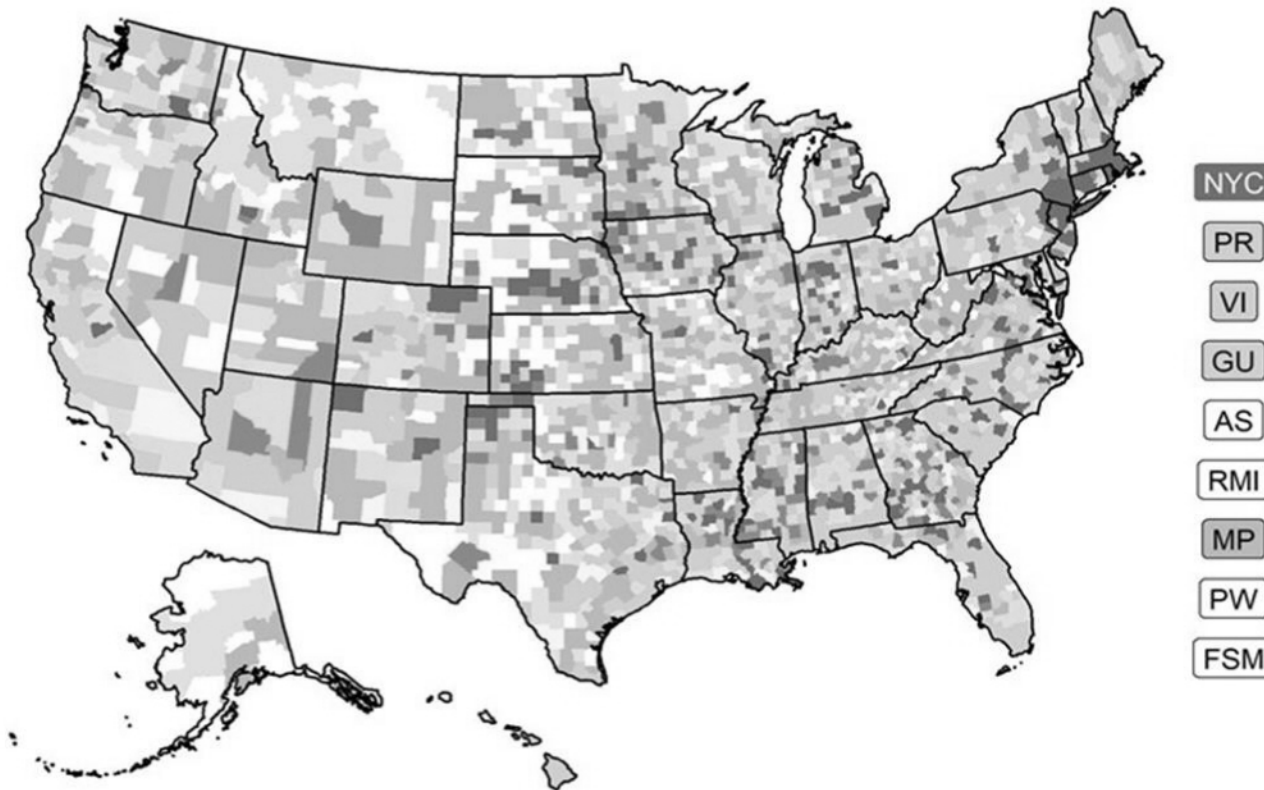
Main Findings

- COVID-19 infection remains prevalent throughout the country
- Elevated incidence of disease during the past 2 weeks is widespread, including in the New York City region, Massachusetts, central Indiana, areas around Chicago, eastern Iowa, northeast Arizona, and the southeastern US

Notes: Defined using the number of new cases per 100,000 in the past 2 weeks. Low is >0 to 10, moderate is >10 to 50, moderately high is >50 to 100, and high is >100. Jurisdictions denoted as 0 cases in the past 2 weeks have had at least 1 case previously.

Sources: USAFacts, US Census

Coronavirus Disease 2019 (COVID-19) Change in Daily Incidence*, by U.S. County, 06 May 2020



Change in incidence
per 100,000 per day



Purpose of this map

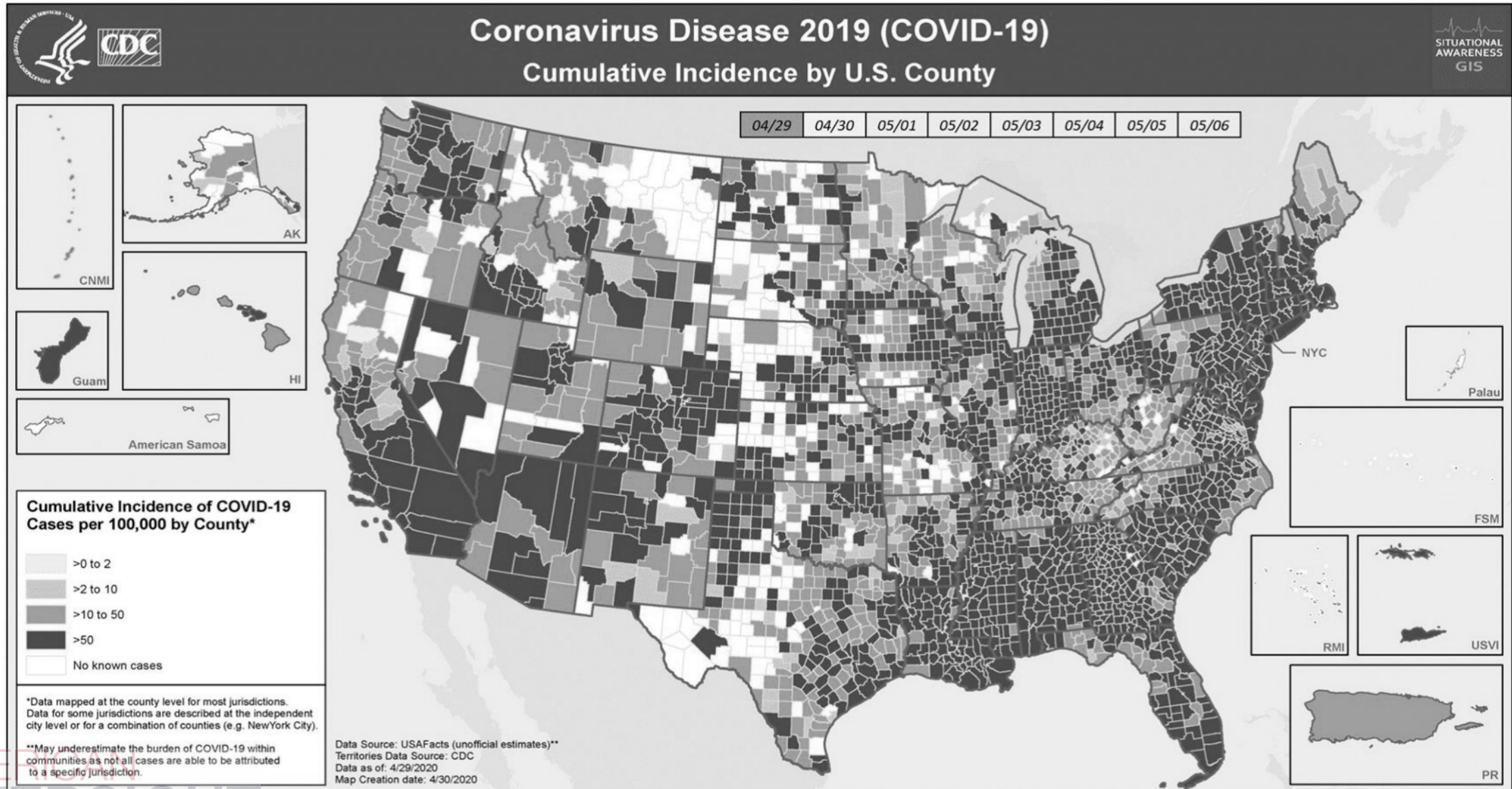
Describes the trajectory of new illnesses as recently increasing, being stable, or decreasing in number

Main Findings

- Incidence rates continue to decrease in multiple counties, including hard hit areas in Louisiana and in the New York City region
- Incidence rates have recently increased in areas around Chicago and in northern Arizona

*Measured as the change in slope of a spline fit to smoothed daily incidence. Incidence was smoothed using a 3-day moving average. These values therefore represent the change in 3-day average number of new cases per 100,000 per day. Greater declines are ≤ -1 , moderate declines are > -1 to -0.1 , plateaus are > -0.1 to ≤ 0.1 , moderate increases are > 0.1 to 1 , greater increases are > 1 . Counties denoted as 0 cases in the past 2 weeks have had at least 1 case previously.

Sources: USAFacts, US Census



2020 WL 2188048

Only the Westlaw citation is currently available.
United States Court of Appeals, Ninth Circuit.

KELVIN HERNANDEZ ROMAN;
et al., Petitioners-Appellees,

v.

CHAD F. WOLF, Secretary, U.S. Department of
Homeland Security; et al., Respondents-Appellants.

No. 20-55436

MAY 05, 2020

D.C. No. 5:20-cv-00768-TJH-PVC Central District of
California, Riverside

Before: SILVERMAN, NGUYEN, and COLLINS, Circuit
Judges.

ORDER

*1 Appellants' Emergency Motion for Stay Pending Appeal (Docket No. 7) is granted in part and denied in part. The district court's preliminary injunction is stayed, except as follows: to the extent that paragraph 13 of the preliminary injunction requires substantial compliance with guidelines issued by the Centers for Disease Control and Prevention (CDC) for correctional and detention facilities to follow in managing **COVID-19**, see Ctrs. for Disease Control & Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, <https://www.cdc.gov/coronavirus/2019ncov/downloads/guidance-correctional-detention.pdf>, the motion for stay is denied. To the extent that paragraph 13 imposes obligations beyond that exception, it is also stayed.

The motion of Nikolas Bowie and others to file a brief amicus curiae in opposition to the motion to stay (Docket No. 12) is granted.

The previously established briefing schedule continues to apply to this appeal.

This appeal shall be expedited and assigned to the next available panel upon completion of briefing.

COLLINS, Circuit Judge, concurring in part and dissenting in part:

I concur in the order insofar as it grants the motion for a stay, but I would stay the district court's preliminary injunction in its entirety. While I am sympathetic to the majority's decision to leave the injunction in place insofar as it requires substantial compliance with the CDC's guidelines for detention facilities concerning **COVID-19**, cf. *Valentine v. Collier*, ___ F.3d ___, 2020 WL 1934431, at *2 (5th Cir. Apr. 22, 2020) (staying injunction that required specific measures that "go[] even further than CDC guidelines"), I have substantial doubt that the district court properly incorporated those guidelines into its preliminary injunction order, and a stay of that obligation is warranted as well. Even setting aside the district court's apparent premise that the CDC guidelines establish a constitutional floor, I note that the guidelines themselves state, in boldface type on the very first page, that "[t]he guidance may need to be adapted based on individual facilities' physical space, staffing, population, operations, and other resources and conditions." See Ctrs. for Disease Control & Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf>. That makes them a poor candidate for incorporation into an injunction, see FED. R. CIV. P. 65(d) (injunction must "state its terms specifically" and "describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required"), and that is especially true where (as here) one of the many problems with the district court's injunction is that it disregards the very sort of considerations that the CDC says may require adaption of the guidelines in the context of a particular facility.

All Citations

--- F.3d ---, 2020 WL 2188048 (Mem)

Page 203

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 204

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of the Freedom of Information and Privacy Act

Page 205

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Non Responsive Record

of the Freedom of Information and Privacy Act

**Department of Homeland Security,
Office of the General Counsel
Operations & Enforcement Law Division**



DATE: Apr. 28, 2020

SUBJECT: OGC Crisis Cell Update 22

I. SITUATION UPDATE:

Total U.S. Domestic COVID-19 Cases: 978,091 (+23,543)

Total U.S. Domestic Deaths: 55,142 (+1,346)

(b)(5)

Page 207

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of the Freedom of Information and Privacy Act

Page 208

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of the Freedom of Information and Privacy Act

Page 209

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Page 210

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Page 211

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Page 212

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of the Freedom of Information and Privacy Act

Page 213

Withheld pursuant to exemption

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Page 214

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of the Freedom of Information and Privacy Act

Page 215

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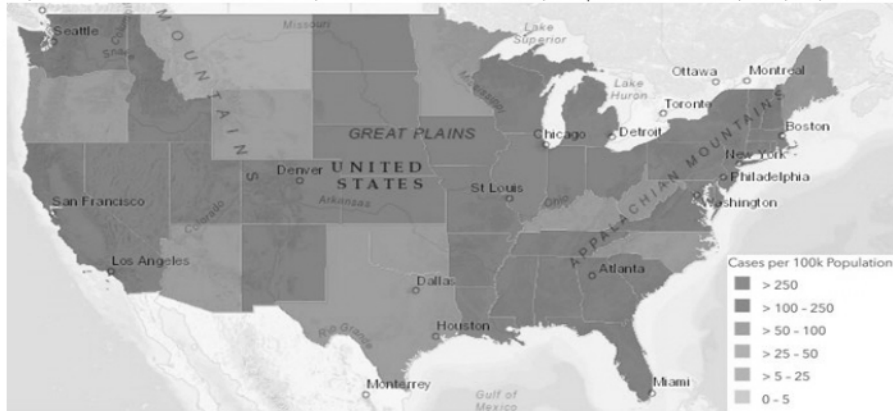
of the Freedom of Information and Privacy Act

Page 216

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of the Freedom of Information and Privacy Act

		Senior Leadership Brief COVID-19 April 28, 2020 5:00 p.m. ET			
For the most up to date COVID-19 data (account required): https://geohealth.hhs.gov/arcgis/home/					
Current Situation: FEMA, HHS, and our federal partners are working with state, local, tribal and territorial (SLTT) governments to execute a Whole-of-America response to the COVID-19 pandemic. The President released <i>Guidelines for Opening America Up Again</i> and the Federal Government is continuing to work with SLTT leaders across the country to ensure they have the equipment, supplies, and testing resources they need to reopen safely and responsibly. The HHS Secretary issued a renewal of the January 31 COVID-19 Public Health Emergency Declaration; the renewal becomes effective April 26 and extends the Declaration for 90 days. CDC Update: CDC confirmed, probable, and presumptive U.S. cases of COVID-19: 978,091 (across 50 states and D.C., Guam, PR, CNMI, and USVI; Deaths: 55,142; Combined CDC and WHO reported global cases: 2,878,196; global deaths: 198,668; Countries and areas with cases: 213 (<i>HHS Update, April 28, 2020, 8:09 a.m. ET</i>)					
Testing: 5,629,412 (+182,779) cumulative as of April 28 (includes samples tested by State/Local Public Health Laboratories, Commercial Laboratories, Hospital Laboratories, CDC, VA, and Abbott ID NOW instruments).					
Health and Medical Lifeline				Other Domestic Lifelines	
Public Health	Federal Assistance - USACE has awarded contracts for ACS with a projected bed capacity of 14,779; 1,495 USACE staff supporting (<i>ESF-3 Update, April 28, 2020, 9:04 a.m. ET</i>) Testing - AZ: Announced the opening of the State's largest COVID-19 drive-thru testing site at AZ State Fairgrounds (1 of 88); will expand AZ's current testing capacity from 4,000 appointments to 13,500 per week; this site is part of AZ's Testing Blitz Campaign (<i>FEMA Region IX Update, April 28, 2020, 12:54 a.m. ET</i>) Personal Protective Equipment/Medical Supplies - NY: State is working to develop a distribution plan and reassess PPE needs before receiving more Federal deliveries of PPE (<i>FEMA Region II Update, April 28, 2020, 11:11 a.m. ET</i>) - Customs and Border Protection assisted the U.S. Embassy in Turkey and Department of State with coordinating the vetting and processing of a Turkish military flight on April 27 with donated PPE on-board (<i>DHS NOC Update, April 28, 2020, 9:29 a.m. ET</i>) Domestic Quarantine and Isolation - Federal Bureau of Prisons has identified the Hazelton Federal Correctional Complex in WV as a quarantine site for D.C. inmates testing positive for COVID-19 (<i>ESF-8 Update, April 28, 2020, 8:51 a.m. ET</i>) - CA: 75 (-67) medical staff from USNS Mercy in isolation (9 (-2) COVID+ and 66 (-65) due to contact with COVID+ person) (<i>DoD Update, April 28, 2020, 8:23 a.m. ET</i>)		Safety & Security	CBP Trusted Traveler Program Enrollment Centers suspended operations until at least May 1; includes all Global Entry, Secure Electronic Network for Travelers Rapid Inspection (SENTRI), and Free and Secure Trade (FAST) enrollment locations (<i>FEMA Region VI Update, April 28, 2020, 12:40 p.m. ET</i>)	
	Hospital Capacity - NYC: Six USAF mental health providers to mobilize at Joint Base McGuire-Dix-Lakehurst on April 27; will integrate on April 28 with behavioral health personnel already in NY/NJ joint operations area (<i>DoD Update, April 28, 2020, 1:46 p.m. ET</i>) - NJ: Edison Expo Center: 23 (-2)/125 (+25) beds filled; 100 (+9) total patients seen; 23 (-2) COVID+ patients (<i>DoD Update, April 28, 2020, 8:23 a.m. ET</i>) - LA: Baton Rouge General Medical Center Mid-City Hospital augmented with military medical personnel; added second 30 bed unit on April 22: 55 (-4)/60 beds filled; 86 (+2) total patients seen; 55 (-4) COVID+ patients being treated; 1 deceased (<i>DoD Update, April 28, 2020, 8:23 a.m. ET</i>) - NYC: Mortuary Affairs: DoD providing 24-hour operations in 3/5 Boroughs since April; Remains processed: 4,337 (<i>DoD Update, April 28, 2020, 8:23 a.m. ET</i>) - CT: Bennett Medical Center; 54 additional military medical personnel will integrate by April 29 increasing bed capacity to 83 beds; currently 25 (+4)/51 beds filled; 121 (+19) total patients seen; 25 (+2) COVID+ patients being treated; 7 (+3) deceased (<i>DoD Update, April 28, 2020, 8:23 a.m. ET</i>) - Guam Memorial Hospital mortuary capacity is 33% available (8/12 morgues full); Chief Medical Examiner mortuary capacity is 44% available (5/9 full); Guam Regional Medical City mortuary capacity is 88% available (1/8 full); Total mortuary capacity: 52% available (<i>FEMA Region IX Update, April 28, 2020, 12:54 a.m. ET</i>)		Food, Water, & Shelter	- NY: Food banks demand in Upstate NY increased 40-60% due to COVID-19; State is launching "Nourish NY Initiative" to connect upstate farms with food banks and dairy producers (<i>FEMA Region II Update, April 28, 2020, 11:11 a.m. ET</i>) - DE: MOU between the state and the DE Food Bank is being developed to support operations such as food drives; a statewide feeding call will take place on April 29 to discuss lessons learned and best practices (<i>FEMA Region III Update, April 28, 2020, 1:42 p.m. ET</i>) - IN: State Board of Animal Health currently monitoring meat processing facility in Louisville, KY; closures or reductions of service likely to impact livestock farmers, plants in Delphi and Logansport, and the food supply (<i>FEMA Region V Update, April 28, 2020, 2:38 p.m. ET</i>) - Region VI (NM National Guard) coordinated with Region IX (AZ National Guard) to pre-position cots, blankets, food, water, and supplies for ACS at National Guard Armory in Gallup, NM (<i>FEMA Region VI Update, April 28, 2020, 1:57 p.m. ET</i>) - OH: Meat Processing Career Center at Pickaway Correctional Facility is closed; potential impacts to prison system food supply and general public (<i>FEMA Region V Update, April 28, 2020, 2:38 p.m. ET</i>) - CA: Shelter (at-risk population): 12,073 hotel/motel rooms acquired; 1,250 trailers deployed to Santa Clara, Los Angeles, and Sacramento counties; Total 13,323 units secured to shelter at-risk individuals. Total rooms occupied: 5,251; Total units required: 15,000 (<i>Region IX Update, April 28, 2020, 12:54 a.m. ET</i>)	
Medical Care	Total Cases 978,091		New Cases Yesterday 23,597		Communication
	Percent Change in Cases 2.3%		Percent Change in Cases 2.3%		
	Total Deaths 55,142		New Deaths Yesterday 1,346		Transportation
	Percent Change in Deaths 2.5%		Percent Change in Deaths 2.5%		
Key Updates/Actions					
FEMA HQ: National Watch Center Steady State; NRCC Level I; Level 1: Region I, IX; Level 2: Regions II, III, IV, V, VI, VII, VIII, X; COVID-19 Major Declarations: 56 (<i>FEMA Update, April 25, 2020, 2:51 a.m. ET</i>) Department of Homeland Security: 33,148 (+5) FEMA employees deployed to support COVID-19 Response; IMAT-A teams deployed to 27 states, territories, and DC; LNOs deployed to 37 states and territories (<i>FEMA Update, April 28, 2020, 1:56 p.m. ET</i>) Department of Health and Human Services: 600 (-19) HHS personnel deployed to support COVID-19 response; Health and Medical Task Force (HMTF): 159 (-1) personnel deployed to 8 sites; Rapid Deployment Force (RDF): 203 (+1) deployed to 5 sites; Disaster Mortuary Operational Response Team (DMORT): 49 (-22) personnel deployed to 10 sites; IMT/Logistics: 59 (+1) personnel deployed to 6 sites; RECs/LNOs: 130 (+2) personnel deployed (<i>HHS Update, April 28, 2020, 1:29 p.m. ET</i>)					
				Hazmat	CO: PPE Sterilization System arrived on April 24 at the Adams County Fairground; missing computer system, biohazard and spill containment material, PPE; State/FEMA are working directly with the local health department on the situation (<i>FEMA Region VIII Update, April 27, 2020, 1:51 p.m. ET</i>)



FEMA

Senior Leadership Brief COVID-19

April 28, 2020 5:00 p.m. ET

For the most up to date COVID-19 data (account required): <https://geohealth.hhs.gov/arcgis/home/>



Operational Task Forces	
Medical Counter-Measure (MCM) Development	- Emergency Use Authorizations granted by FDA: 42 molecular diagnostic tests, 21 laboratory-developed tests, 8 antibody tests, and 2 repurposed treatments (chloroquine, hydroxychloroquine) (MCM TF Update, April 28, 2020, 8:38 a.m. ET) 2,555 market research submissions and 242 CoronaWatch meetings held (MCM TF Update, April 27, 2020, 8:38 a.m. ET)
Health Care Resilience (HCR)	- Active future planning on Alternate Care Sites strategy; priorities are ACS continuity of operations, reimbursement, disposition logistics, and engagement with stakeholders (HCR TF Update, April 28, 2020, 10:20 a.m. ET) - Supply Preservation Strategy: continued focus on implementation and messaging to stakeholders to increase preservation of supplies, including PPE; working with NRCC and SCTF to increase utilization of deployed decontamination systems, site visit to PPE decontamination system in NY (in progress); working with External Affairs and SCTF on preservation messaging for isolation and surgical gowns following interagency VTC presentation on April 25 (HCR TF Update, April 28, 2020, 10:20 a.m. ET) - Readiness Metrics: refining indicators to track the preparedness of healthcare systems to respond to additional COVID-19 surges, focusing on using existing data sources (HCR TF Update, April 28, 2020, 10:20 a.m. ET)
Lab Diagnostics	- Working with CDC to develop fact sheet on point of care tests for state public health leadership (LDTF Update, April 28, 2020 10:59 a.m. ET) - Received a demonstration of the State Public Health supply/demand dashboard, a tool being developed to support leadership with data-informed decision-making for addressing diagnostic testing needs (LDTF Update, April 28, 2020 3:30 p.m. ET) - Conducting second round of CDC/HHS/FEMA state calls with KS and CO to discuss strategies and technical assistance to states to help them meet their testing targets; calls for the remaining states will take place the rest of the week with LDTF SMEs on each call (LDTF Update, April 28, 2020 10:59 a.m. ET) - DOE National Labs beginning work to validate alternative extraction reagents to pair with available RT-PCR test kits; anticipating results from the validation work next week (LDTF Update, April 28, 2020 10:59 a.m. ET)
Community Based Testing Sites (CBTS)	133,470 samples collected at CBTS locations since March 20 (CBTS TF Update, April 28, 2020, 9:44 a.m. ET) 128,278 tests processed and received by call center since March 20; 22,029 positive, 1,224 indeterminate, and 105,027 negative (CBTS TF Update, April 28, 2020, 9:44 a.m. ET) - Developing communications plan for CBTS 2.0 to inform stakeholders of critical updates (CBTS TF Update, April 28, 2020, 9:44 a.m. ET)
Supply Chain Stabilization	- Airbridge flights #86, #87 and #89 arrived in Chicago, April 27; cargo is being assessed (SC TF Update, April 28, 2020, 10:04 a.m. ET) - Airbridge flight #88 arrived in Los Angeles, April 27; cargo is being assessed (SC TF Update, April 28, 2020, 10:04 a.m. ET) - Airbridge flights #90, #91 and #92 arrived in Chicago, April 27; cargo is being assessed (SC TF Update, April 28, 2020, 1:02 p.m. ET) - Airbridge flights #93 and #95 scheduled to arrive in Los Angeles, April 28; cargo will be assessed upon arrival (SC TF Update, April 28, 2020, 10:04 a.m. ET) - The SCTF Data and Analytics Cell distributed the updated "51 State Report" to FEMA leadership; this report highlights the distribution of private sector PPE nationwide and informs the National Resource Prioritization Cell, SCTF Leadership, and FEMA National and Regional Administrators (SC TF Update, April 28, 2020, 10:04 a.m. ET) - Three flights carrying 667K FEMA procured N95 are scheduled to arrive in New York City, NY, and Chicago, IL, and Washington, D.C. on April 28; this will bring the total received masks to 23M of the 55M currently scheduled for shipment (SC TF Update, April 28, 2020, 10:04 a.m. ET)
Community Mitigation Measures	- At Risk Individuals: Outreach includes a webinar today with National Christian Church United which will also be done in Spanish; will talk about reaching out to people with disabilities, other at-risk populations, and related organizations (CMM TF Update, April 28, 2020, 10:03 a.m. ET) - Provided technical assistance to Bureau of Prisons/Chicago Metropolitan Correctional Centers; discussed epidemiology, isolation and quarantine procedures, staff movements, and testing (CMM TF Update, April 28, 2020, 10:03 a.m. ET) - Monitoring and Evaluation Team met with FEMA to discuss joint analysis of state and local orders related to community mitigation (CMM TF Update, April 28, 2020, 10:03 a.m. ET) - Coordinating with other task forces to promote new meat packing guidance (CMM TF Update, April 28, 2020, 10:03 a.m. ET)
Continuity of Operations (COOP)	- Over the past 24 hours 1 Wireless Emergency Alert (WEA) messages related to COVID-19 sent by local authorities; 1 stay at home/curfew reminder; (COOP TF Update, April 28, 2020, 10:02 a.m. ET) - Developing webinar products supporting reconstitution in both Federal and "whole community" versions; draft Fact Sheet to be submitted to EA for clearance (COOP TF Update, April 28, 2020, 10:02 a.m. ET)
Data and Analysis	- Completed International Reagent Resource (IRR) Allocation Tool to support NRCC decision-making and testing supply allocation; tool delivered to the NRCS Chief on April 27 (DA TF Update, April 28, 2020, 09:52 a.m. ET) - Completed cumulative ICU bed projections for the months of May, June, and July to support analysis of expected resource requirements for continuous renal replacement therapy and dialysis treatment; analysis provided to the White House and Unified Coordination Group (UCG) on April 27 (DA TF Update, April 28, 2020, 09:52 a.m. ET) - Developing national-level report to visualize total ventilators on-hand and projected ventilator demand across the nation; preliminary product expected for Data and Analysis Task Force Leadership review on April 29 (DA TF Update, April 28, 2020, 09:52 a.m. ET) - Actively facilitating access to HHS Protect for state partners and FEMA and ASPR regional staff (DA TF Update, April 28, 2020, 09:52 a.m. ET)

AMERICAN
OVERSIGHT

DHS-20-1106-A-000218



FEMA

Senior Leadership Brief COVID-19

April 28, 2020 5:00 p.m. ET

For the most up to date COVID-19 data (account required): <https://geohealth.hhs.gov/arcgis/home/>



Title 32 Status by State											
38,864 Activated				State Active Duty (SAD): 1,956				T32 Approved: 47			
				T-32 502(f): 36,908				T32 Requested: 4			
NGB Update, April 28, 2020, 4:06 p.m.											
State / Territory	SAD	T-32 502(f)	Title 32 Request Status	State / Territory	SAD	T-32 502(f)	Title 32 Request Status	State / Territory	SAD	T-32 502(f)	Title 32 Request Status
AK	83	0	WH AUTHORIZED & APPROVED**	KY	0	663	WH AUTHORIZED & APPROVED**	OH	45	932	WH AUTHORIZED & APPROVED**
AL	594	0	WH AUTHORIZED & APPROVED**	LA	0	1060	WH AUTHORIZED & APPROVED**	OK	0	261	WH AUTHORIZED & APPROVED**
AR	38	0	REQUESTED	MA	95	1433	WH AUTHORIZED & APPROVED**	OR	0	181	WH AUTHORIZED & APPROVED**
AZ	0	894	WH AUTHORIZED & APPROVED**	MD	13	991	WH AUTHORIZED & APPROVED**	PA	163	728	WH AUTHORIZED & APPROVED**
CA	80	1446	WH AUTHORIZED & APPROVED**	ME	0	85	WH AUTHORIZED & APPROVED**	PR	46	850	WH AUTHORIZED & APPROVED**
CO	9	345	WH AUTHORIZED & APPROVED**	MI	0	597	WH AUTHORIZED & APPROVED**	RI	14	824	WH AUTHORIZED & APPROVED**
CT	1	783	WH AUTHORIZED & APPROVED**	MN	11	0	REQUESTED	SC	21	504	WH AUTHORIZED & APPROVED**
DC	0	236	WH AUTHORIZED & APPROVED**	MO	0	764	WH AUTHORIZED & APPROVED**	SD	216	0	N/A
DE	67	0	WH AUTHORIZED & APPROVED**	MS	5	437	WH AUTHORIZED & APPROVED**	TN	19	696	WH AUTHORIZED & APPROVED**
FL	8	2534	WH AUTHORIZED & APPROVED**	MT	0	200	WH AUTHORIZED & APPROVED**	TX	0	2880	WH AUTHORIZED & APPROVED**
GA	0	2550	WH AUTHORIZED & APPROVED**	NC	0	882	WH AUTHORIZED & APPROVED**	UT	25	0	N/A
GU	1	167	WH AUTHORIZED & APPROVED**	ND	97	0	REQUESTED	VA	1	454	WH AUTHORIZED & APPROVED**
HI	3	1223	WH AUTHORIZED & APPROVED**	NE	2	303	WH AUTHORIZED & APPROVED**	USVI	0	148	WH AUTHORIZED & APPROVED**
IA	6	425	WH AUTHORIZED & APPROVED**	NH	1	455	WH AUTHORIZED & APPROVED**	VT	15	219	WH AUTHORIZED & APPROVED**
ID	4	0	REQUESTED	NJ	0	627	WH AUTHORIZED & APPROVED**	WA	0	779	WH AUTHORIZED & APPROVED**
IL	99	1008	WH AUTHORIZED & APPROVED**	NM	10	521	WH AUTHORIZED & APPROVED**	WI	4	828	WH AUTHORIZED & APPROVED**
IN	99	1066	WH AUTHORIZED & APPROVED**	NV	0	967	WH AUTHORIZED & APPROVED**	WV	45	439	WH AUTHORIZED & APPROVED**
KS	4	475	WH AUTHORIZED & APPROVED**	NY	12	3048	WH AUTHORIZED & APPROVED**	WY	0	0	N/A
**Title 32 has been authorized and approved by the Secretary of Defense.											



DHS-20-1106-A-000219



FEMA

Senior Leadership Brief COVID-19

April 28, 2020 5:00 p.m. ET

For the most up to date COVID-19 data (account required): <https://geohealth.hhs.gov/arcgis/home/>



Region	State/Location	EMAC	Federally Supported		Total Federal Vents (SNS + DoD)	SNS Status
			SNS	DoD		
1	CT		350		350	Delivered
1	MA		400		400	Delivered
1	RI		100		100	Delivered
2	NY	100	2,140		2,140	Delivered
2	NYC		2,400		2,400	Delivered
2	NJ	100	1,050	500	1,550	Delivered
3	MD	50	470		470	Delivered
3	DE	50	50		50	Delivered
3	DC	50	200		50	Delivered
4	FL		200		200	Delivered
4	GA		150		150	Delivered
5	IL	100	310		310	300 – Delivered 10 – En Route
5	Chicago		310		310	300 – Delivered 10 – En Route
5	MI		700		700	Delivered
5	IN		110		110	100 – Delivered 10 – En Route
6	LA		350		350	Delivered
6	BOP		20		20	Delivered
6	Navajo Nation		50		50	Delivered
6	Cherokee Nation (OK)		10		10	En Route
8	CO		100		100	Delivered
9	CA		0		0	N/A
9	LA County		170		170	Delivered
9	GU		55		55	30 – Delivered 25 – En Route
9	NV	50	150		150	Delivered
9	AZ		100		100	Delivered
9	CNMI		25		25	En Route
9	Federated States of Micronesia		30 (+30)		30 (+30)	En Route
9	Palau		10 (+10)		10 (+10)	En Route
9	Republic of the Marshal Islands		10 (+10)		10 (+10)	En Route
10	AK		60		60	Delivered
10	OR		0		0	Transferred to 140 NY
10	WA		73		73	WA returned 427 vents to the SNS
Total		500	10,153 (+50)	500	10,653 (+50)	

AMERICAN
OVERSIGHT

DHS-20-1106-A-000220
As of 4/28/2020 4:33 p.m.



FEMA

Senior Leadership Brief COVID-19

April 28, 2020 5:00 p.m. ET

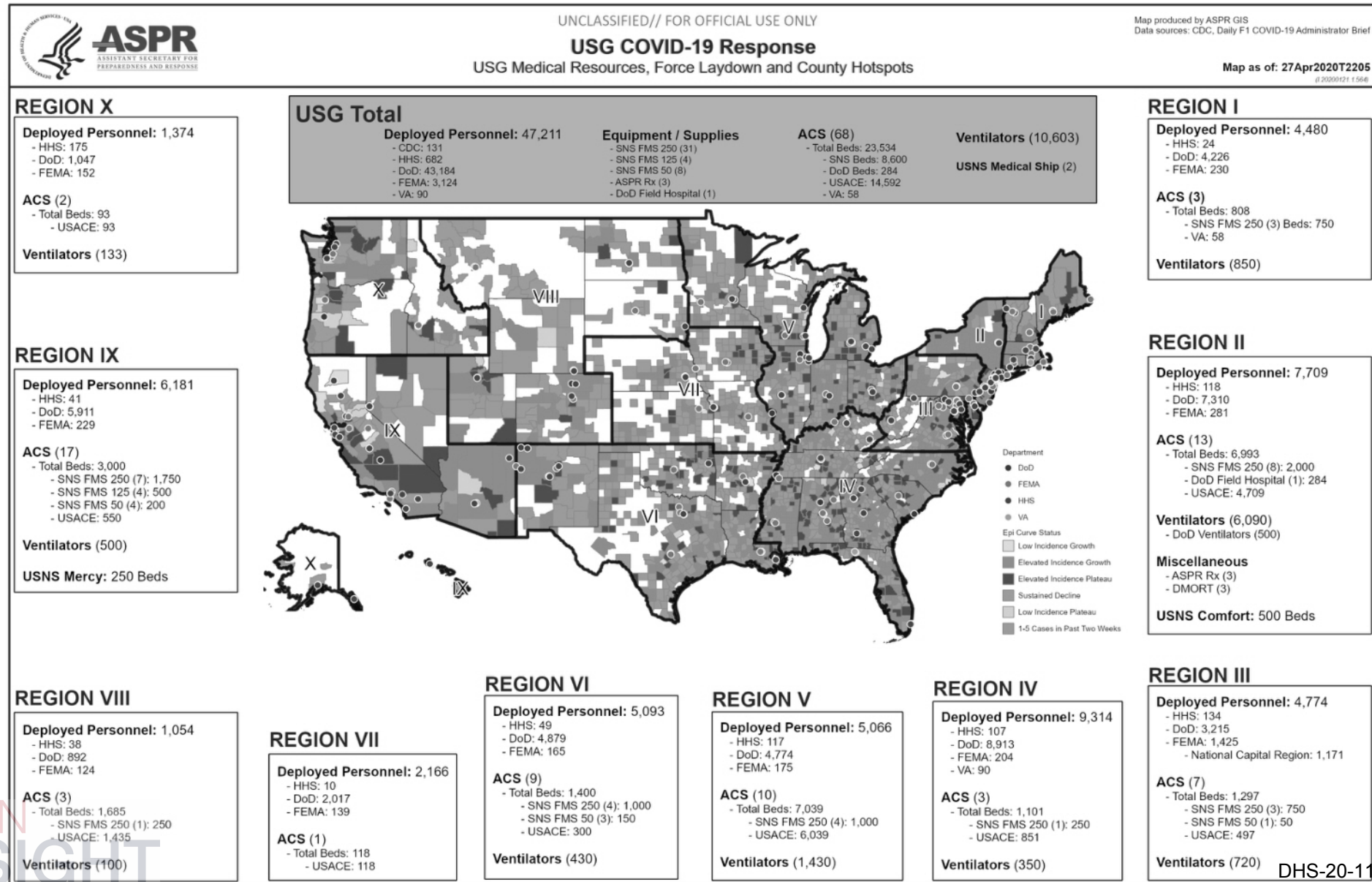
For the most up to date COVID-19 data (account required): <https://geohealth.hhs.gov/arcgis/home/>



PPE and Ventilator Quantities by Resource Subcategory and Status

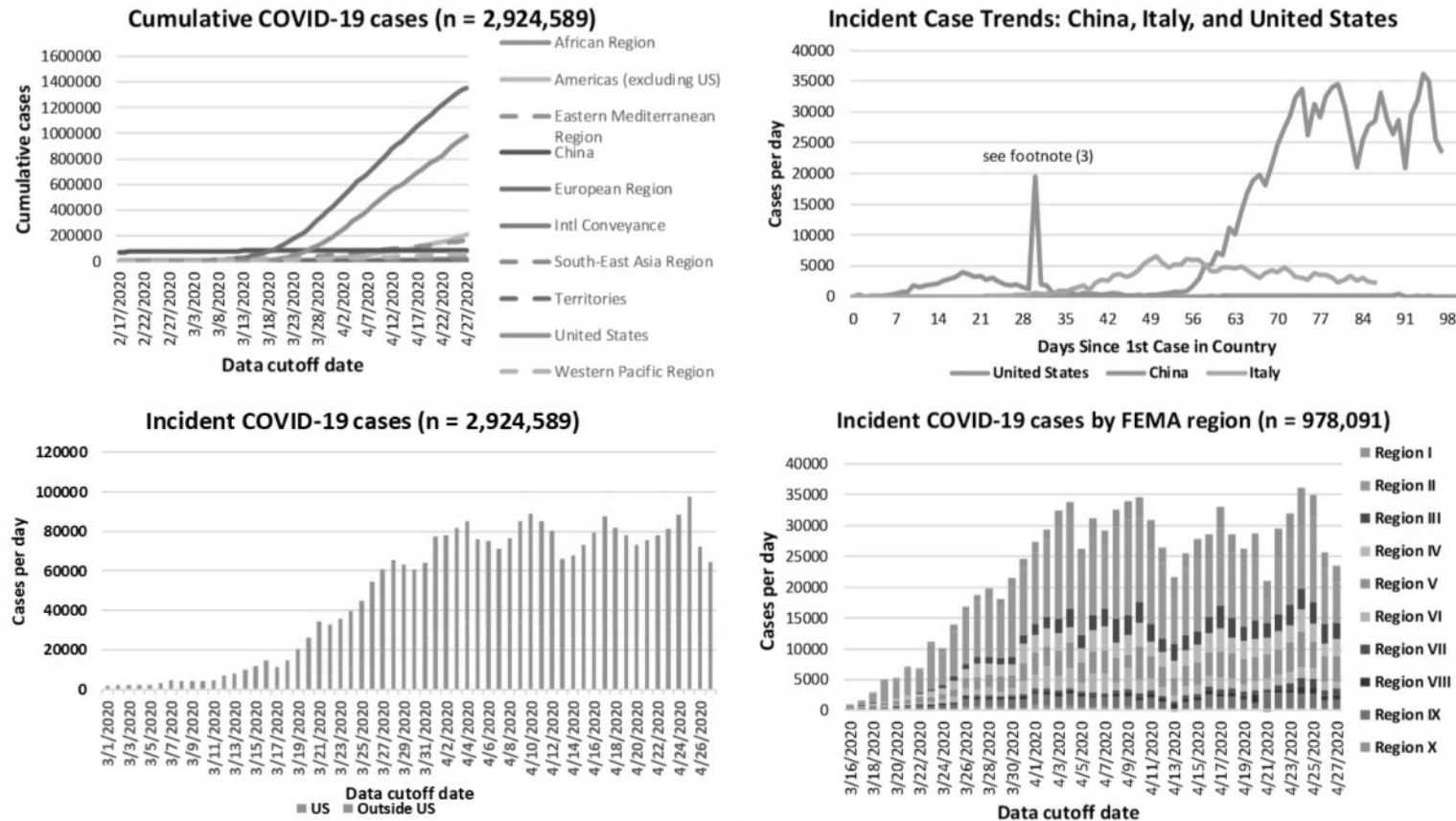
Resource	Resource Subcategory	Obligated ¹	In Transit ²	Delivered ³	Total
Personal Protective Equipment (PPE)	Coveralls	780	79,000	566,863	646,643
	Face Shields	73,648	29,000	6,502,226	6,604,874
	Gloves	10,226,682	19,282,900	35,558,414	65,067,996
	Goggles	800		5,030	5,830
	K90 Masks			1,622,000	1,622,000
	N95 Respirators	24,608,154	2,930,110	48,146,781	75,685,045
	PAPR	1,200			1,200
	Surgical Gowns	292,524	98,200	4,948,810	5,339,534
	Surgical Masks	2,715,682	1,500,000	31,454,691	35,670,373
	Tychem Suits			43,525	43,525
	Tyvek Suits			6,575	6,575

As of 4/27/2020 7:00 p.m.



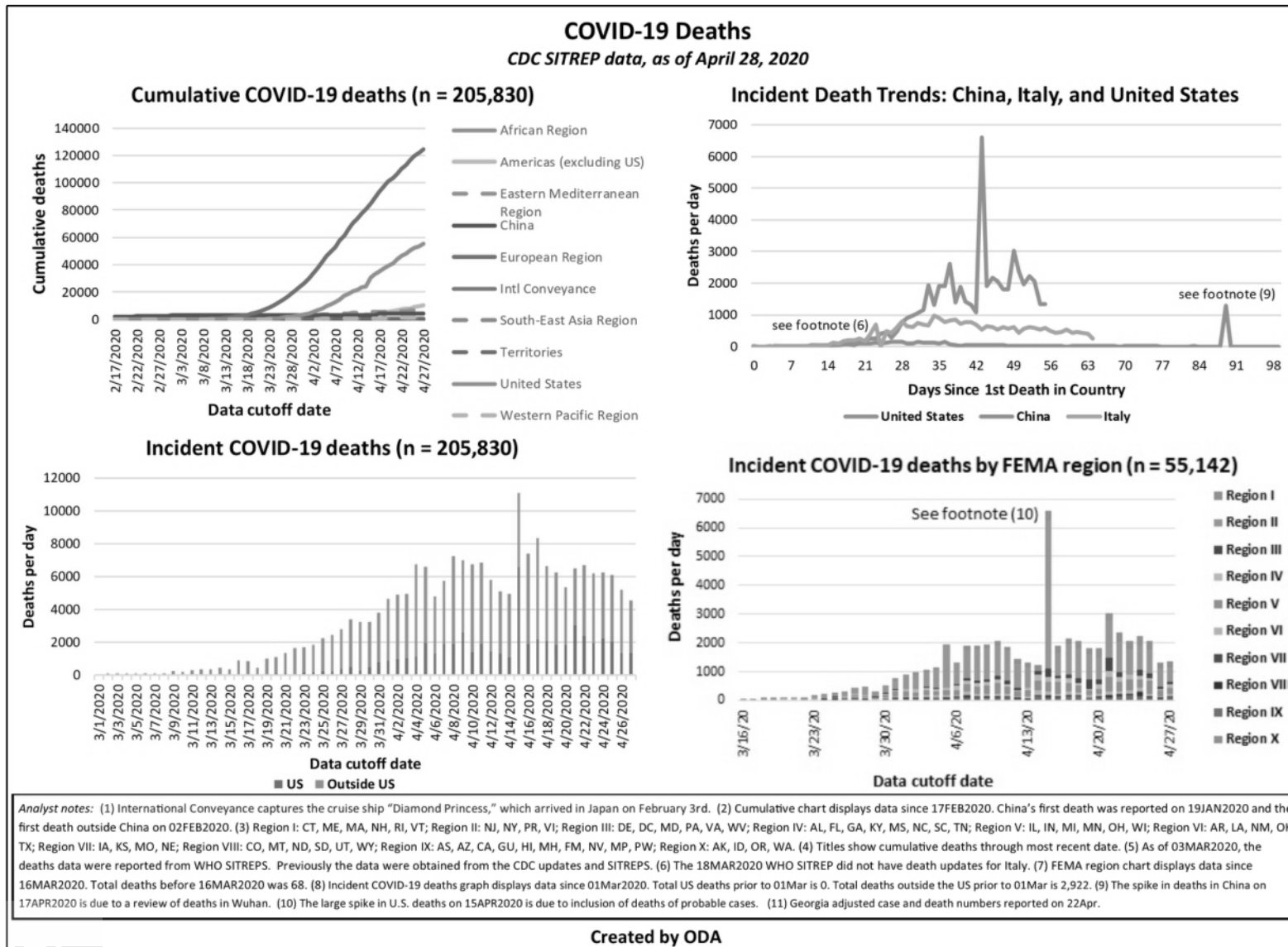
COVID-19 Cases

CDC SITREP data, as of April 28, 2020



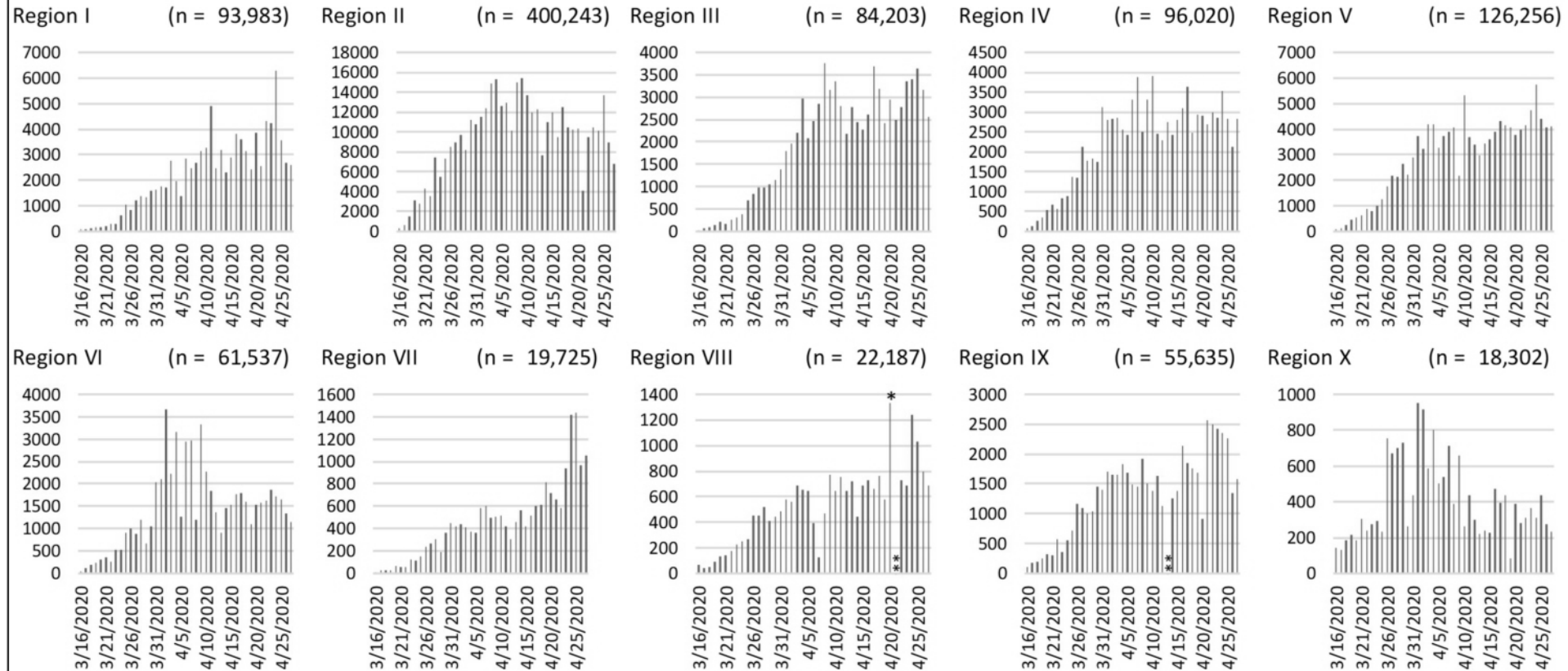
Analyst notes: (1) International Conveyance captures the cruise ship "Diamond Princess," which arrived at Yokohama Port in Japan on 03FEB2020. (2) U.S. cases from "Diamond Princess" are being counted both in international conveyance and U.S. cases. (3) The sharp increase in cases reported for China on 17Feb2020 reflects a change in China's reporting of cases. For 17Feb2020, China reported 19,457 cases. Before this date, only laboratory confirmed cases were reported. Chinese case counts currently combine lab-confirmed and clinically diagnosed. (4) As of 03MAR2020, the case data were reported from the World Health Organization (WHO) SITREPS. Previously the data were obtained from the CDC updates and SITREPS. (5) Cumulative chart displays data since 17FEB2020. China's first case was reported on 19JAN2020 and the first case outside China on 20JAN2020. (6) Region I: CT, ME, MA, NH, RI, VT; Region II: NJ, NY, PR, VI; Region III: DE, DC, MD, PA, VA, WV; Region IV: AL, FL, GA, KY, MS, NC, SC, TN; Region V: IL, IN, MI, MN, OH, WI; Region VI: AR, LA, NM, OK, TX; Region VII: IA, KS, MO, NE; Region VIII: CO, MT, ND, SD, UT, WY; Region IX: AS, AZ, CA, GU, HI, MH, FM, NV, MP, PW; Region X: AK, ID, OR, WA. (7) Titles show cumulative cases through most recent date. (8) FEMA region chart displays data since 16MAR2020. Total cases before 16MAR2020 was 3730. (9) Incident COVID-19 cases graph displays data since 01MAR2020. Total US cases prior to 01Mar is 66. Total cases outside the US prior to 01Mar is 85,135. (9) Georgia adjusted case and death numbers reported on 22Apr.

Created by ODA



Incident COVID-19 cases by FEMA region (cumulative cases in parentheses)

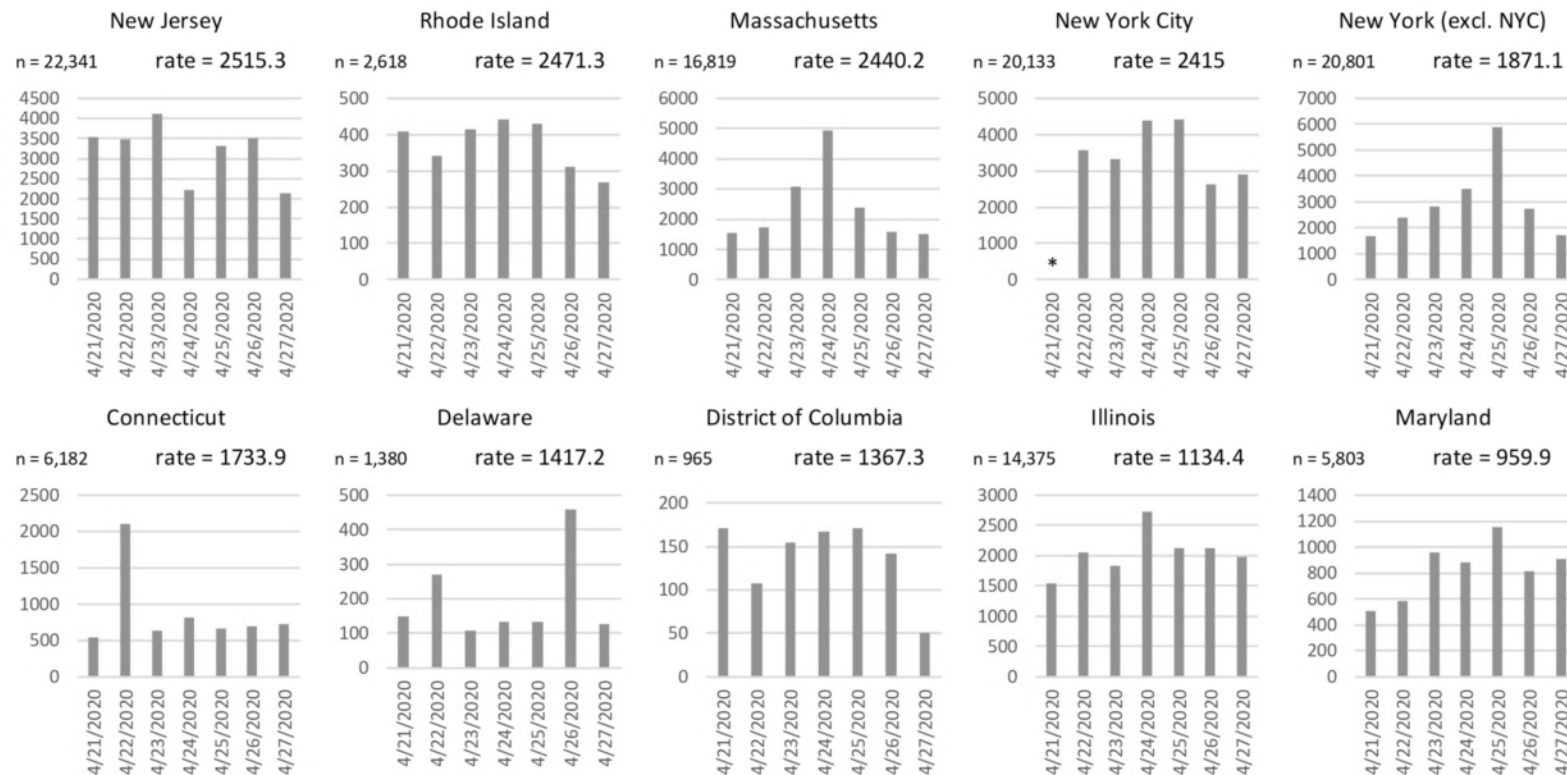
CDC SITREP data, as of April 28, 2020



Notes: (1) Data are from CDC SITREPS. (2) The y-axis of the graphs varies. (3) The charts display data since 16MAR2020. Total cases in the U.S. before 16MAR2020 was 3,730. *The increase in Region VIII cases on 20Apr is due to the inclusion of probable cases reported in Colorado. **A state in the region updated reported values of new cases, resulting in negative values.

Number and rate (per 1M persons) of COVID-19 cases, past 7 days among top 10 U.S. locations with highest rates

CDC SITREP data, as of April 28, 2020



Notes: (1) Data are from CDC SITREPS. (2) The y-axis of the graphs varies. *A correction in total cases resulted in negative new cases in New York City on 21Apr.



KRISTIN GASPAR
SUPERVISOR, THIRD DISTRICT
SAN DIEGO COUNTY BOARD OF SUPERVISORS

April 19, 2020

The Vice President
The White House
1600 Pennsylvania Avenue, NW
Washington D.C. 20500

Dear Mr. Vice President,

Thank you for your leadership as our country battles the COVID-19 pandemic. As an elected representative of the 3.3 million people who call San Diego County home, I am writing to ask for your assistance with a growing concern south of our border.

While we work diligently to protect San Diegans from the spread of the virus and prepare for our own "peak", our medical staff and private hospital network are becoming increasingly worried about the rapid spread of COVID-19 in northern Mexico. As you know, approximately 200,000 US citizens live across the border. Our hospitals in Chula Vista, California, are now seeing a sudden influx of critically ill patients from Mexico. Tragically, some of these cases have resulted in fatalities. I would like to request a call or virtual meeting between senior Administration officials and our County's medical team and hospital executives as soon as possible.

Specifically, we would like to discuss:

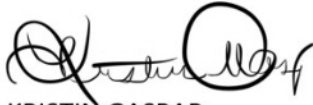
1. Mutual aid to Mexico to treat patients in Mexico
2. Assistance with getting Mexico more Personal Protective Equipment (PPE) and staffing
3. Setting up a temporary hospital at the border to treat those arriving there in ambulances rather than transferring them to US ambulances and hospitals
4. Allowing bi-national workers at US hospitals who go back and forth across the border to stay in US hotels while actively treating COVID patients and authorize FEMA reimbursement for those stays
5. Expediting more PPE to San Diego County to assist with cruise ship passengers/crew who have been directed here by the federal government. Additionally, we have border crossers and treated hundreds of Wuhan travelers sent to Marine Corps Air Station Miramar by the State Department, so we have had more than just our own residents in treatment
6. Instituting temperature checks at the border and triaging anyone with a fever exceeding 100 degrees to quarantine, isolation or medical care

7. Requiring quarantine of 14 days for any non-essential border crossers consistent with other international travelers

San Diego County is well-prepared to handle our expected peak and we have innovative contingency plans in place, but we cannot do it alone. We need the help of the federal government to be vigilant in working with our neighbors to the south to help contain their current outbreak while protecting the health and safety of our own residents.

Thank you for your attention to this matter. Please contact me directly about setting-up a meeting with your team as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristin Gaspar', with a large circular flourish at the end.

KRISTIN GASPAR
Supervisor, Third District
County of San Diego

THE WHITE HOUSE

WASHINGTON

April 10, 2020

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF HOMELAND SECURITY

SUBJECT: Visa Sanctions

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. In Executive Order 13768 of January 25, 2017 (Enhancing Public Safety in the Interior of the United States), I stressed the importance of cooperation between the Secretary of State and the Secretary of Homeland Security to effectively implement the sanctions provided by section 243(d) of the Immigration and Nationality Act (INA), 8 U.S.C. 1253(d). Considering the profound and unique public health risks posed by the novel (new) coronavirus known as SARS-CoV-2, the need for that cooperation and timely and effective implementation is greater than ever before. On March 13, 2020, I declared a national emergency recognizing the threat that SARS-CoV-2 poses to the Nation's healthcare systems. In recognizing the public health risk, I noted that on March 11, 2020, the World Health Organization announced that the COVID-19 (the disease caused by SARS-CoV-2) outbreak can be characterized as a pandemic. Countries that deny or unreasonably delay the acceptance of their citizens, subjects, nationals, or residents from the United States during the ongoing pandemic caused by SARS-CoV-2 create unacceptable public health risks for Americans. The United States must be able to effectuate the repatriation of foreign nationals who violate the laws of the United States.

Sec. 2. Visa Sanctions. (a) The Secretary of Homeland Security shall notify the Secretary of State, pursuant to section 243(d) of the INA, 8 U.S.C. 1253(d), if any government of a foreign country denies or unreasonably delays the acceptance of aliens who are citizens, subjects, nationals, or residents of that country after being asked to accept those aliens, and if such denial or delay is impeding operations of the Department of Homeland Security necessary to respond to the ongoing pandemic caused by SARS-CoV-2.

(b) Upon receipt of a notification described in subsection (a) of this section, the Secretary of State shall as expeditiously as possible, but no later than 7 days after receipt, adopt and initiate a plan to impose the visa sanctions provided for in section 243(d) of the INA. Nothing in this subsection shall be construed to alter or limit the authority of the Secretary of State to make exceptions consistent with the foreign policy interests of the United States.

(c) Sanctions imposed pursuant to subsection (b) of this section shall cease to apply if the Secretary of Homeland Security notifies the Secretary of State that a foreign country has resumed accepting aliens without unreasonable delay who are its citizens, subjects, nationals, or residents when asked to accept those aliens.

Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

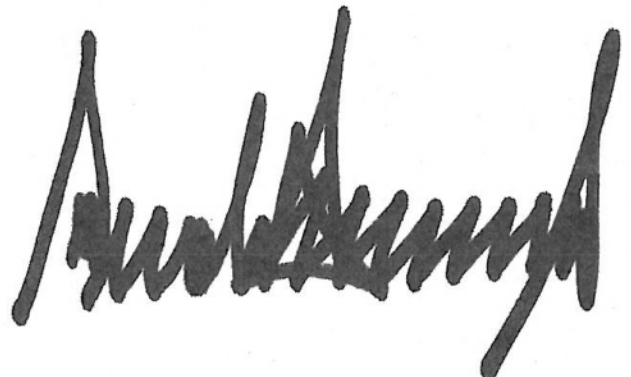
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) This memorandum shall cease to apply on December 31, 2020, unless extended.

A large, stylized handwritten signature in black ink, likely belonging to a high-ranking official, is positioned in the lower right quadrant of the page.

THE WHITE HOUSE

WASHINGTON

April 2, 2020

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF HOMELAND SECURITY

SUBJECT: Order Under the Defense Production Act Regarding
the Purchase of Ventilators

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Defense Production Act of 1950, as amended (50 U.S.C. 4501 et seq.) (the "Act"), it is hereby ordered as follows:

Section 1. Policy. On March 13, 2020, I declared a national emergency recognizing the threat that the novel (new) coronavirus known as SARS-CoV-2 poses to our healthcare systems. In recognizing the public health risk, I noted that on March 11, 2020, the World Health Organization announced that the outbreak of COVID-19 (the disease caused by SARS-CoV-2) can be characterized as a pandemic. I also noted that while the Federal Government, along with State and local governments, have taken preventive and proactive measures to slow the spread of the virus and to treat those affected, the spread of COVID-19 within our Nation's communities threatens to strain our Nation's healthcare systems. I further noted that, to ensure that our healthcare systems are able to surge capacity and capability to respond to the spread of COVID-19, it is critical that all health and medical resources needed to respond to the spread of COVID-19 are properly distributed to the Nation's healthcare systems and others that need them most at this time. Accordingly, I found that health and medical resources needed to respond to the spread of COVID-19, including personal protective equipment and ventilators, meet the criteria specified in section 101(b) of the Act (50 U.S.C. 4511(b)).

Sec. 2. Presidential Direction to the Secretary of Health and Human Services (Secretary). The Secretary, in consultation with the Secretary of Homeland Security, shall use any and all authority available under the Act to facilitate the supply of materials to the appropriate subsidiary or affiliate of the

following entities for the production of ventilators: General Electric Company; Hill-Rom Holdings, Inc.; Medtronic Public Limited Company; ResMed Inc.; Royal Philips N.V.; and Vyair Medical, Inc.

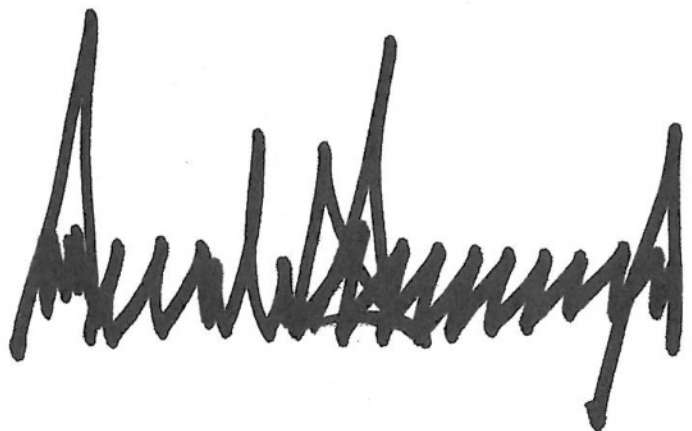
Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A large, stylized handwritten signature in black ink, appearing to be 'Andrew M. Cuomo', is written across the lower right portion of the page.

THE WHITE HOUSE

WASHINGTON

April 3, 2020

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF HOMELAND SECURITY
THE ADMINISTRATOR OF THE FEDERAL EMERGENCY
MANAGEMENT AGENCY

SUBJECT: Allocating Certain Scarce or Threatened Health
and Medical Resources to Domestic Use

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Defense Production Act of 1950, as amended (50 U.S.C. 4501 *et seq.*) (the "Act"), it is hereby ordered as follows:

Section 1. Policy. To deal with the threat that the novel (new) coronavirus known as SARS-CoV-2 poses to our Nation's healthcare systems, on March 18, 2020, I issued Executive Order 13909 (Prioritizing and Allocating Health and Medical Resources to Respond to the Spread of COVID-19), in which I found that health and medical resources needed to respond to the spread of COVID-19, including personal protective equipment (PPE) and ventilators, meet the criteria specified in section 101(b) of the Act (50 U.S.C. 4511(b)). And on March 23, 2020, I issued Executive Order 13910 (Preventing Hoarding of Health and Medical Resources to Respond to the Spread of COVID-19), in which I delegated to the Secretary of Health and Human Services the authority under section 102 of the Act (50 U.S.C. 4512) to combat hoarding with respect to such resources. On March 27, 2020, I issued Executive Order 13911 (Delegating Additional Authority under the Defense Production Act With Respect to Health and Medical Resources to Respond to the Spread of COVID-19), in which I delegated to the Secretary of Homeland Security the prioritization and allocation authority under section 101 of the Act (50 U.S.C. 4511) with respect to such resources.

On March 25, 2020, the Secretary of Health and Human Services designated under section 102 of the Act 15 categories of health and medical resources as scarce materials or materials the supply of which would be threatened by accumulation in

excess of the reasonable demands of business, personal, or home consumption, or for the purpose of resale at prices in excess of prevailing market prices ("scarce or threatened materials"). These designated items include certain PPE materials. To ensure that these scarce or threatened PPE materials remain in the United States for use in responding to the spread of COVID-19, it is the policy of the United States to prevent domestic brokers, distributors, and other intermediaries from diverting such material overseas.

Sec. 2. Presidential Direction to the Secretary of Homeland Security. The Secretary of Homeland Security, through the Administrator of the Federal Emergency Management Agency, in consultation with the Secretary of Health and Human Services, shall use any and all authority available under section 101 of the Act to allocate to domestic use, as appropriate, the following scarce or threatened materials designated by the Secretary of Health and Human Services under section 102 of the Act:

(a) N-95 Filtering Facepiece Respirators, including devices that are disposable half-face-piece non-powered air-purifying particulate respirators intended for use to cover the nose and mouth of the wearer to help reduce wearer exposure to pathogenic biological airborne particulates;

(b) Other Filtering Facepiece Respirators (e.g., those designated as N99, N100, R95, R99, R100, or P95, P99, P100), including single-use, disposable half-mask respiratory protective devices that cover the user's airway (nose and mouth) and offer protection from particulate materials at an N95 filtration efficiency level per 42 CFR 84.181;

(c) Elastomeric, air-purifying respirators and appropriate particulate filters/cartridges;

(d) PPE surgical masks, including masks that cover the user's nose and mouth and provide a physical barrier to fluids and particulate materials; and

(e) PPE gloves or surgical gloves, including those defined at 21 CFR 880.6250 (exam gloves) and 878.4460 (surgical gloves) and such gloves intended for the same purposes.

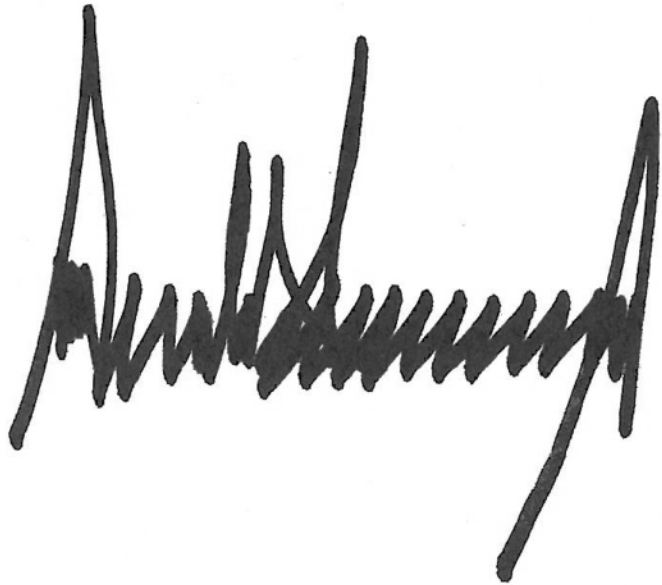
Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A large, stylized handwritten signature in black ink, appearing to be 'Andrew...' followed by a long, sweeping flourish.

THE WHITE HOUSE

WASHINGTON

April 7, 2020

MEMORANDUM FOR THE SECRETARY OF DEFENSE
THE SECRETARY OF HOMELAND SECURITY

SUBJECT: Providing Federal Support for Governors' Use of
the National Guard to Respond to COVID-19

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"), and section 502 of title 32, United States Code, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the United States to take measures to assist State Governors under the Stafford Act in their responses to all threats and hazards to the American people in their respective States. Considering the profound and unique public health risks posed by the ongoing outbreak of COVID-19, the disease caused by the novel (new) coronavirus known as SARS-CoV-2 ("the virus"), the need for close cooperation and mutual assistance between the Federal Government and the States is greater than at any time in recent history. In recognizing this serious public health risk, I noted that on March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic. On March 13, 2020, I declared a national emergency recognizing the threat that SARS-CoV-2 poses to the Nation's healthcare systems. I also determined that same day that the COVID-19 outbreak constituted an emergency, of nationwide scope, pursuant to section 501(b) of the Stafford Act (42 U.S.C. 5191(b)). All States have activated their Emergency Operations Centers and are working to fight the spread of the virus and attend to those who have symptoms or who are already infected with COVID-19. To provide maximum support to the Governors of the States of Arizona, Colorado, Kentucky, Mississippi, Montana, Nevada, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, Wisconsin, and West Virginia as they make decisions about the responses required to address local conditions in each of their respective jurisdictions and as they request Federal support under the Stafford Act, I am taking the actions set forth in sections 2 and 3 of this memorandum:

Sec. 2. One Hundred Percent Federal Cost Share. To maximize assistance to the Governors of the States of Arizona, Colorado, Kentucky, Mississippi, Montana, Nevada, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, Wisconsin, and West Virginia to facilitate Federal support with respect to the use of National Guard units under State control, I am directing the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security to fund 100 percent of the emergency assistance activities associated with preventing, mitigating, and responding to the threat to public health and safety posed by the virus that these States undertake using their National Guard forces, as authorized by sections 403 (42 U.S.C. 5170b) and 503 (42 U.S.C. 5193) of the Stafford Act.

Sec. 3. Support of Operations or Missions to Prevent and Respond to the Spread of COVID-19. I am directing the Secretary of Defense, to the maximum extent feasible and consistent with mission requirements (including geographic proximity), to request pursuant to 32 U.S.C. 502(f) that the Governors of the States of Arizona, Colorado, Kentucky, Mississippi, Montana, Nevada, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, Wisconsin, and West Virginia order National Guard forces to perform duty to fulfill mission assignments, on a fully reimbursable basis, that FEMA issues to the Department of Defense for the purpose of supporting their respective State and local emergency assistance efforts under the Stafford Act.

Sec. 4. Termination. The 100 percent Federal cost share for National Guard forces pursuant to this memorandum, and in my prior memoranda dated March 22, 28, and 30, 2020, and April 2, 2020, each titled "Providing Federal Support for Governors' Use of the National Guard to Respond to COVID-19," is effective for orders of duty of a duration of 31 days or fewer. These orders of duty must be effective no later than 2 weeks from the date of this memorandum.

Sec. 5. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

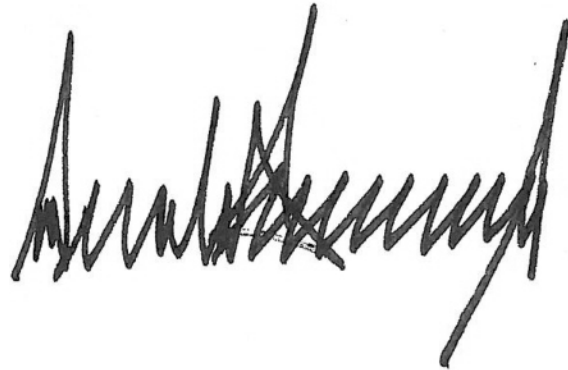
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register*.

A handwritten signature in dark ink, appearing to be "Andrew M. Ross", is written over the text of paragraph (d). The signature is stylized and somewhat illegible.

THE WHITE HOUSE

WASHINGTON

April 10, 2020

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE SECRETARY OF COMMERCE
THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF HOMELAND SECURITY
THE ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRS
THE ASSISTANT TO THE PRESIDENT FOR ECONOMIC
POLICY
THE ADMINISTRATOR OF THE FEDERAL EMERGENCY
MANAGEMENT AGENCY
THE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE
UNITED STATES
THE ADMINISTRATOR OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT
THE CHIEF EXECUTIVE OFFICER OF THE UNITED STATES
INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

SUBJECT: Providing COVID-19 Assistance to the Italian
Republic

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. The Italian Republic (Italy), one of our closest and oldest Allies, is being ravaged by the COVID-19 pandemic, which has already claimed more than 18,000 lives, brought much of the Italian healthcare system to the brink of collapse, and threatens to push Italy's economy into a deep recession. The Government of Italy has requested United States assistance. Although the United States Government's first and foremost responsibility is to the American people, coming to the aid of Italy will help fight the COVID-19 outbreak and mitigate the impact of the crisis, while simultaneously demonstrating United States leadership in the face of Chinese and Russian disinformation campaigns, lessening the risk of re-infection from Europe into the United States, and maintaining critical supply chains.

Sec. 2. Support by Public International Organizations and Non-Governmental Organizations. The Secretary of State and the Administrator of the United States Agency for International Development (USAID Administrator), in consultation with relevant United States embassies and missions, including the United States Mission to Italy, the United States Embassy to the Holy See, and the United States Mission to the UN Agencies in Rome, shall identify public international organizations and non-governmental organizations (NGOs), including faith-based organizations, that are positioned to support Italy and Italian communities with respect to the COVID-19 crisis in Italy, and prioritize agency action as the Secretary of State and USAID Administrator deem necessary and appropriate to implement this memorandum.

Sec. 3. Contribution of Equipment and Supplies. To assist with Italy's urgent need for medical equipment and supplies to respond to the COVID-19 outbreak, and excluding provision of items that the Secretary of Health and Human Services or the Secretary of Homeland Security determines are required for our Nation's domestic response to the COVID-19 crisis:

(a) the Secretary of Commerce, in consultation with the Secretary of Health and Human Services and with the Secretary of Homeland Security, working through the Administrator of the Federal Emergency Management Agency, shall, if appropriate, facilitate contacts between Italian authorities and United States companies, and when appropriate, encourage United States suppliers to conduct commercial sales of items requested by Italian authorities or healthcare providers;

(b) the Secretary of Defense shall identify available nonlethal excess supplies that could be transferred to the Secretary of State for distribution for humanitarian relief purposes in Italy;

(c) the USAID Administrator shall, in coordination with the Secretary of Health and Human Services, identify appropriate NGOs and public international organizations capable of providing supplies and equipment needed by Italy and prioritize agency action as the USAID Administrator deems necessary and appropriate to implement this memorandum; and

(d) the Secretary of State shall encourage corporations and NGOs with a presence in Italy, including faith-based

organizations, to donate medical equipment and supplies to Italy.

Sec. 4. Using the Department of Defense's Existing Presence in Italy. In light of the more than 30,000 United States military personnel and dependents in Italy, the Secretary of Defense shall, without jeopardizing force readiness or health of the force, without detracting from our Nation's domestic response to the COVID-19 crisis, and consistent with the policy limitations in this memorandum, make personnel and facilities available to assist Italy in its response to COVID-19 by:

- (a) providing telemedicine services to Italian hospitals;
- (b) facilitating transport and set-up of field hospitals and response equipment provided by non-United States Government sources;
- (c) facilitating the transport of supplies, fuel, and food;
- (d) treating, by referral, and in consultation with the medical treatment facility commander, Italian non-COVID-19 patients (with particular consideration given to military and civilian first responders) at United States facilities;
- (e) providing support to Italy's Civil Military Operations Center in order to ensure a coordinated response to the COVID-19 pandemic; and
- (f) offering, as appropriate, United States-operated military-to-military medical evacuation services for non-COVID-19 patients.

Sec. 5. Technical Support. In light of the ongoing partnerships between the Department of Health and Human Services and Italy's health sector, the Secretary of Health and Human Services shall, in consultation with the United States Embassy in Rome, provide technical support, as appropriate and consistent with applicable law, to assist in the response to the COVID-19 pandemic in Italy.

Sec. 6. Support to Italian Businesses. The Secretary of State, the USAID Administrator, and the President of the Export-Import Bank of the United States, in consultation with the

Secretary of the Treasury, the Secretary of Commerce, the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Chief Executive Officer of the United States International Development Finance Corporation, may use available authorities to support the recovery of the Italian economy, as appropriate and consistent with the policy limitations in this memorandum.

Sec. 7. Limitation. All support and assistance addressed in this memorandum are subject to the limitation that they shall not be provided if they detract from domestic requirements that presently exist or that may arise in the future for responding to the spread of COVID-19 within the United States.

Sec. 8. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A large, bold, handwritten signature in black ink, appearing to be 'Anthony Z. ...' with a long, sweeping underline.

Validity of FEMA Regulations Implementing Section 708 of the Defense Production Act

OLC has been asked to assess whether the regulations of the Federal Emergency Management Agency (“FEMA”) codified at 44 C.F.R. part 332 remain valid. These regulations implement section 708 of the Defense Production Act of 1950 (“DPA”), which authorizes the federal government to provide for the formation of “voluntary agreements” among private-sector entities “to help provide for the national defense.” 50 U.S.C. § 4558(c)(1). Section 708(e)(1) of the DPA provides that an official delegated this authority from the President “shall . . . promulgate rules . . . incorporating standards and procedures by which voluntary agreements and plans of action may be developed and carried out.” *Id.* § 4558(e)(1).

A draft memorandum prepared by FEMA in 2014 asserts that the FEMA’s part 332 regulations “are not legally valid” by virtue of certain executive orders issued after FEMA promulgated the regulations in 1981. 2014 Memo at 1; *see also* Final Rule, Voluntary Agreements: Standards and Procedures, 46 Fed. Reg. 2349 (Jan. 9, 1981). As the memo explains in greater detail, President Carter amended Executive Order 10480 (1953) through Executive Order 12148 of July 20, 1979, to vest FEMA with “the authority to carry out the President’s functions under section 708 of the DPA, including exclusive authority for voluntary agreements related to priorities and allocations, and the authority to direct and control the voluntary agreement authority granted to other federal agencies.” 2014 Memo at 3. FEMA then promulgated the regulations in question, citing section 708 of the DPA, Executive Order 10480 (as amended), and Executive Order 12148 as authority. 46 Fed. Reg. at 2350.

Subsequent executive orders revoked Executive Order 10480, curtailed FEMA’s delegated section 708 authority, and ultimately, pursuant to the Homeland Security Act, transferred its delegation to the Department of Homeland Security (“DHS”), which now houses FEMA. Exec. Order No. 12919 (1994); Exec. Order No. 13286 (2003); Exec. Order No. 13603 (2012). The orders issued in 1994 and 2012 contained virtually identical language providing as follows:

All previously issued orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except as they are inconsistent with this order or are subsequently amended or revoked under proper authority. Nothing in this order shall affect the validity or force of anything done under previous delegations or other assignment of authority under the [Defense Production] Act.

Exec. Order No. 12919, § 903; *see also* Exec. Order No. 13603, § 803(a). DHS has repeatedly redelegated its section 708 authority back to FEMA. *See* 2014 Memo at 4; DHS Delegation 09052 Rev. 00 (Jan. 3, 2017); DHS Delegation 09052 Rev. 00.1

(Apr. 1, 2020).¹ But FEMA’s 2014 memo takes the view that the intervening executive orders—particularly the provisions stating that the orders invalidate “previously issued ... regulations” that are “inconsistent” with the orders—rendered FEMA’s regulations at 44 C.F.R. part 332 legally void.

We disagree with this assessment. To begin with, FEMA’s regulations are not now, and largely never have been, in “conflict” with the various delegations of authority under section 708. The 1994 issuance of Executive Order 12919 altered the delegation of authority to FEMA by limiting FEMA’s government-wide role of directing and controlling the voluntary agreement process. But it preserved FEMA’s authority to exercise the President’s section 708 authority.²

Executive Order 12919 thus limited FEMA’s authority to administer its existing regulations, but in doing so, it did not invalidate them. The President controls the scope of any delegations of his authority to his agency heads, *see Main Street Legal Servs., Inc. v. Nat’l Sec. Council*, 811 F.3d 542, 558 (2d Cir. 2016), and so the President could eliminate FEMA’s authority to use any aspect of its regulations that were in conflict with the new scope of its delegation, such as the portion of 44 C.F.R. § 332.1(b)(3) purporting to give FEMA authority to “direct[]” and “control” any other agency’s conduct in sponsoring a voluntary agreement under section 708. But the order did not purport to “invalidate” that or any other of FEMA’s regulations—it said merely that they would not be in “effect” to the extent they were inconsistent with the order. The order further specified that it did not “affect the validity or force of anything done under previous delegations or other assignment of authority.”

We interpret all of this to mean that the President did not take any action that would have the effect of revoking FEMA’s regulations directly, even if the order limited FEMA’s authority to actually take actions under those regulations that conflicted with his revised delegation. The President could have directed FEMA to amend its regulations to conform to the delegation. But he did not under Executive Order 12919. The regulations here were issued by FEMA, which would presumptively be the agency to modify or revoke them. *Cf. Main Street*, 811 F.3d at 558 (the President “cannot take away [an] agency’s statutory authority or exercise it himself”); *Centralizing Border Control Policy Under the Supervision of the Attorney General*, 26 Op. O.L.C. 22, 23 (2002) (“Congress may prescribe that a particular executive function may be performed only by a designated official within the Executive Branch, and not by the President”). But FEMA did not do so here.

¹ We have been unable to find copies of these delegations, so we rely on FEMA’s description of them in a recent draft of new section 708 regulations.

² Section 501 of Executive Order 12919 delegated the President’s section 708(c) and (d) voluntary agreement authority to “the heads of each Federal department or agency.” At that time, FEMA was a separate agency, and not a component of DHS.

We also do not think that any of the subsequent modifications to FEMA’s delegation of section 708 authority invalidated the regulations. FEMA points out that in 2003, the President implemented the Homeland Security Act, which transferred FEMA to the Department of Homeland Security, by replacing the references to “FEMA” in Executive Order 12919 with “DHS.” But the Homeland Security Act expressly provided that “[c]ompleted administrative actions of an agency shall not be affected by the enactment of this Act of the transfer of such agency to” DHS. 6 U.S.C. § 552(a)(1). The transfer of this authority did not invalidate FEMA’s regulations—it merely placed FEMA under the supervision of the DHS Secretary with respect to administering them, since FEMA’s delegation was now vested in the DHS Secretary. *See id.* §§ 112(a)(3), 313(c)(3).

The 2012 order, Executive Order 13603, broadened the DHS Secretary’s delegation of the President’s authority under section 708, but likewise did not invalidate the regulations. *See* Exec. Order No. 13603, § 104(b)(2) (directing DHS to “provide for the central coordination of the plans and programs incident to authorities and functions delegated under this order,” including section 708 of the DPA). Indeed, this order contains the same language preserving prior regulatory action as Executive Order 12919. That authority has been expressly delegated by the DHS Secretary to the FEMA Administrator. DHS Delegation 09052 Rev. 00 (Jan. 3, 2017). And today, of course, FEMA has a separate delegation of section 708 authority to deal with the COVID-19 pandemic by virtue of Executive Order 13911 and a delegation of that authority from the DHS Secretary to FEMA.

Finally, we note that the foregoing analysis is consistent with some government practice. The Department of Transportation has treated the regulations as operative and complied with them in administering the only two voluntary agreements currently in existence. *See* Cong. Research Serv., R43767, *The Defense Production Act of 1950: History, Authorities, and Considerations for Congress* 17 (updated Mar. 2, 2020); *see also, e.g.*, Renewal of the Voluntary Tanker Agreement Program; Agreement Development Proposal, 84 Fed. Reg. 58,824, 58,826 (Nov. 1, 2019) (proposed voluntary agreement treating 44 C.F.R. pt. 332 as operative); Voluntary Intermodal Sealift Agreement, 79 Fed. Reg. 64,462, 64,469 (Oct. 29, 2014) (extension of voluntary agreement treating 44 C.F.R. pt. 332 as operative).³

³ When FEMA promulgated these regulations in 1981, the Department of Transportation and several other agencies “concurred” in them upon their publication but did not formally adopt them as a joint rule and incorporate them into their own regulations. 46 Fed. Reg. at 2351–52. For present purposes we need not decide whether this satisfied section 708(e)(1) of the DPA, which may be read to require each agency delegated voluntary-agreement authority by the President to promulgate its own rules “incorporating standards and procedures by which voluntary agreements and plans of action may be developed and carried out.” The fact that other agencies have not issued rules suggests that FEMA’s regulations continue to be widely viewed as legally valid.

For these reasons, we do not think that FEMA's regulations are invalid. FEMA may rely on those regulations to the extent they are consistent with the scope of the President's delegations of authority to FEMA and the subdelegation from the Secretary of Homeland Security to FEMA.

Page 247

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Page 339

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From:	Sevier, Adrian (b)(6)
To:	Greenberg, Jeremy (b)(6)
Subject:	RE: Talking points for Congressional Call - Bidding and DPA
Date:	2020/04/07 10:26:00
Priority:	Normal
Type:	Note

(b)(5)

There's been a lot of hullabaloo this morning over the 3M order blocking orders to Canada. You might want to let Bibb know – FEMA's DPA order to 3M does NOT block 3M from distributing N95s to Canada or Latin America.

From: Greenberg, Jeremy (b)(6)
Sent: Tuesday, April 7, 2020 10:21 AM
To: Bibb, David (b)(6)
Cc: Dorko, Jeffrey (b)(6); Nalepa, Jessica (b)(6); Litzow, Elizabeth (b)(6); Harper, Jay (b)(6); Sevier, Adrian (b)(6); Vogelmann, Constance (b)(6); Plostock, Michael (b)(6); Marten, Lexi (OGA) (b)(6); McCane, Bobby (b)(6); Ingol, Lester (b)(6)
Subject: Talking points for Congressional Call - Bidding and DPA

Dave,

Below are the talking points you requested related to competition and DPA issues. Please let me know if you need anything else.

(b)(5)

(b)(5)

Jeremy Greenberg
Deputy Director (A) | Office of External Affairs
Mobile: (202) 704-8184
Jeremy.greenberg@fema.dhs.gov

Federal Emergency Management Agency
[fema.gov](https://www.fema.gov)



Federal Emergency Management Agency

Sender:	Sevier, Adrian (b)(6)
Recipient:	Greenberg, Jeremy (b)(6)
Sent Date:	2020/04/07 10:26:05
Delivered Date:	2020/04/07 10:26:00

Page 342

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Page 343

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Page 371

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Page 372

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of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

Page 398

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Duplicate

of the Freedom of Information and Privacy Act

Page 399

Withheld pursuant to exemption

Duplicate

of the Freedom of Information and Privacy Act

Page 400

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of the Freedom of Information and Privacy Act

Page 401

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Duplicate

of the Freedom of Information and Privacy Act

Page 402

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of the Freedom of Information and Privacy Act

Page 403

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of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

Page 405

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of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

Page 408

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of the Freedom of Information and Privacy Act

Page 409

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Duplicate

of the Freedom of Information and Privacy Act

Page 410

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Duplicate

of the Freedom of Information and Privacy Act

Page 411

Withheld pursuant to exemption

Duplicate

of the Freedom of Information and Privacy Act

Page 412

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of the Freedom of Information and Privacy Act

the Tunisian government. The attached documents were obtained from the freight forwarder and include purchase invoices, certificate of origin, and a manufacturer's confirmation listing the serial numbers of each of the ventilators and certifying that they were manufactured in March 2020.

Commerce advises me that the license determination could take as many as 30 days before the shipment would be cleared for export. During that process the items will be detained at the Lufthansa Air Cargo facility at JFK Airport.

Please advise whether FEMA/HHS intend to take any action with respect to these devices.

Thanks,

Page 413

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Ian C. Richardson

Assistant United States Attorney
National Security and Cybercrime

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Eastern District of New York
of the Freedom of Information and Privacy Act
271 Cadman Plaza East
Brooklyn, New York 11201
T: (718) 254-6299 | F: (718) 254-6320

<Rate and Allocate DM_BioMed Devices_draft.docx>

Sender:	Hayes, Jonathan (OS/ASPR/IO) <Jonathan.Hayes@hhs.gov>
Recipient:	Driggs, Scott S (HHS/OGC) <Scott.Driggs@HHS.GOV>; Ezernack, Paige (OS/ASPR/SPPR) <Paige.Ezernack@hhs.gov>; Burnham, James (OAG) <James.Burnham@usdoj.gov>; Hughes, William C. (ODAG) <William.C.Hughes@usdoj.gov>; Doolin, Joel </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8dae036a8c0b469aaa633c6c5105b589-Doolin, Joe>; Sevier, Adrian </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d59787db8e84f8cb6e5ad2a4745196d-Sevier, Adr>; Greene, Jonathan (OS/ASPR/EMMO) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=contact2e6a1a64>; Shuy, Bryan (OS/ASPR/IO) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=contacta18f196b>; Ezernack, Paige (OS/ASPR/SPPR) <Paige.Ezernack@hhs.gov>
Sent Date:	2020/04/06 11:56:16
Delivered Date:	2020/04/06 11:56:32

Page 414

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Duplicate

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Page 415

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of the Freedom of Information and Privacy Act

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 496

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 497

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Non Responsive Record

of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

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Non Responsive Record

of the Freedom of Information and Privacy Act

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Non Responsive Record

of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

Page 502

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of the Freedom of Information and Privacy Act

Page 503

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 504

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of the Freedom of Information and Privacy Act

Page 505

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of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 508

Withheld pursuant to exemption

Non Responsive Record

of the Freedom of Information and Privacy Act

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Non Responsive Record

of the Freedom of Information and Privacy Act

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 511

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 512

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 513

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 514

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Non Responsive Record

of the Freedom of Information and Privacy Act

Page 515

Withheld pursuant to exemption

Non Responsive Record

of the Freedom of Information and Privacy Act

Page 516

Withheld pursuant to exemption

Non Responsive Record

of the Freedom of Information and Privacy Act