

117TH CONGRESS  
1ST SESSION

# H. R. 4470

To amend title 41, United States Code, and the Internal Revenue Code of 1986, to ensure availability of personal protective equipment during pandemics and other public health emergencies through stockpile requirements and domestic manufacturing incentives, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2021

Mrs. CAROLYN B. MALONEY of New York introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 41, United States Code, and the Internal Revenue Code of 1986, to ensure availability of personal protective equipment during pandemics and other public health emergencies through stockpile requirements and domestic manufacturing incentives, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Made in America Pan-  
5 demic Preparedness Act”.

1 **SEC. 2. REQUIREMENT TO MAINTAIN SUFFICIENT PER-**  
2 **SONAL PROTECTIVE EQUIPMENT STOCKPILE**  
3 **AND DOMESTIC SUPPLY CHAINS FOR NA-**  
4 **TIONAL SECURITY PURPOSES.**

5 (a) IN GENERAL.—Chapter 83 of title 41, United  
6 States Code, is amended by adding after section 8302 the  
7 following:

8 **“§ 8302A. Personal protective equipment stockpile**  
9 **and domestic supply chains**

10 “(a) DOMESTIC CONTENT REQUIREMENT.—

11 “(1) IN GENERAL.—To ensure strategic domes-  
12 tic supply chain capabilities for national security  
13 purposes, all personal protective equipment procured  
14 for the Strategic National Stockpile shall be per-  
15 sonal protective equipment that is produced in the  
16 United States.

17 “(2) EXCEPTION.—Paragraph (1) shall not  
18 apply with respect to the procurement of an item  
19 that is personal protective equipment if the Sec-  
20 retary determines that—

21 “(A) applying such paragraph would be in-  
22 consistent with the public interest or national  
23 security interest;

24 “(B) such item is not produced in the  
25 United States in sufficient and reasonably

1 available quantities and of a satisfactory qual-  
2 ity;

3 “(C) applying paragraph (1)—

4 “(i) with respect to a contract, cooper-  
5 ative agreement, or transaction to be en-  
6 tered into on or before the date that is 5  
7 years after the date of the enactment of  
8 the Made in America Pandemic Prepared-  
9 ness Act, will increase the cost of such con-  
10 tract, cooperative agreement, or trans-  
11 action by more than 50 percent; and

12 “(ii) with respect to a contract, coop-  
13 erative agreement, or transaction to be en-  
14 tered into after the date that is 5 years  
15 after the date of the enactment of the  
16 Made in America Pandemic Preparedness  
17 Act, will increase the cost of such contract,  
18 cooperative agreement, or transaction by  
19 more than 25 percent; or

20 “(D) such item is, or includes, materials  
21 determined to be nonavailable in accordance  
22 with section 25.104 of the Federal Acquisition  
23 Regulation.

24 “(3) NOTIFICATION OF NONCOMPLIANCE RE-  
25 QUIRED.—If the Secretary determines that the re-

1       requirement in paragraph (1) is not satisfied, the Sec-  
2       retary shall—

3               “(A) submit to the Committee on Home-  
4       land Security and Governmental Affairs of the  
5       Senate and the Committee on Oversight and  
6       Reform of the House of Representatives quar-  
7       terly—

8               “(i) a notification stating that such  
9       requirement has not been satisfied; and

10              “(ii) a report on—

11                      “(I) the personal protective  
12       equipment in the Strategic National  
13       Stockpile;

14                      “(II) any contract, cooperative  
15       agreement, or other transaction en-  
16       tered into in the prior quarter for the  
17       procurement of personal protective  
18       equipment not produced in the United  
19       States, including the exception under  
20       subsection (a)(5) applied with respect  
21       to such contract; and

22                      “(III) any actions taken by the  
23       Secretary to ensure that the require-  
24       ment under paragraph (1) is satisfied;  
25       and

1 “(B) post on the website maintained by the  
2 Administrator of General Services at SAM.gov  
3 (or any successor site) each notification re-  
4 quired by subparagraph (A)(i), except for any  
5 information that is exempt from mandatory dis-  
6 closure under section 552 of title 5, United  
7 States Code.

8 “(b) SUFFICIENCY OF STRATEGIC NATIONAL STOCK-  
9 PILE.—The Director shall work with the Secretary to  
10 issue a biannual report to Congress that includes the fol-  
11 lowing:

12 “(1) The state of personal protective equipment  
13 inventory in the Strategic National Stockpile.

14 “(2) The state of personal protective equipment  
15 inventory in stockpiles of other Federal agencies.

16 “(3) Estimates of the state of personal protec-  
17 tive equipment inventory of non-Federal entities.

18 “(4) Estimates of the quantities of personal  
19 protective equipment that would be required for an  
20 array of possible emergencies, including a pandemic  
21 or other emergency declared under section 319 of  
22 the Public Health Service Act (42 U.S.C. 247d) and  
23 that could last at least a year.

24 “(c) WEBSITE.—The Administrator of General Serv-  
25 ices shall post on the website maintained by the Adminis-

1   trator at SAM.gov (or any successor site) information that  
2   identifies suppliers that can provide personal protective  
3   equipment that is produced in the United States for the  
4   Strategic National Stockpile.

5       “(d) APPLICATION.—This section shall be applied in  
6   a manner consistent with United States obligations under  
7   international agreements.

8       “(e) DEFINITION.—In this section—

9           “(1) DIRECTOR.—The term ‘Director’ means  
10   the Director of the Office of Management and Budget.  
11   et.

12          “(2) PERSONAL PROTECTIVE EQUIPMENT.—  
13   The term ‘personal protective equipment’ means an  
14   item designed to protect the wearer or user from the  
15   spread of infection or other health hazard, or to protect  
16   other individuals from possible infection by the  
17   wearer, including a facemask, face covering, face  
18   shield, gown, coverall, glove, goggle, respirator, protective  
19   eyewear, biohazard container, shoe cover,  
20   hood, helmet, sleeve, scrub suit, surgical drape,  
21   human remains bag, towel, disinfecting wipe, triage  
22   tent, medical tent, or hand sanitizer.

23          “(3) PRODUCED IN THE UNITED STATES.—The  
24   term ‘produced in the United States’ means, with respect  
25   to an item—

1           “(A) the item that is manufactured or as-  
2           sembled in the United States; and

3           “(B) the total value of the parts or compo-  
4           nents contained in the item that are not grown,  
5           reprocessed, reused, manufactured, or assem-  
6           bled in the United States does not exceed 25  
7           percent of the total purchase price of the item.

8           “(4) STRATEGIC NATIONAL STOCKPILE.—The  
9           term ‘Strategic National Stockpile’ means the Stra-  
10          tegic National Stockpile under section 319F–2 of  
11          the Public Health Service Act (42 U.S.C. 247d–6b).

12          “(5) SECRETARY.—The term ‘Secretary’ means  
13          the Secretary of Health and Human Services.

14          “(f) RULE OF CONSTRUCTION.—Nothing in this sec-  
15          tion shall be construed to limit the private distribution,  
16          purchase, or sale of personal protective equipment from  
17          sources other than the Strategic National Stockpile.”.

18          (b) EFFECTIVE DATE.—This section, and the amend-  
19          ments made by this section, shall take effect on the date  
20          that is six months after the date on which this section  
21          is enacted.

22          (c) TECHNICAL AND CONFORMING AMENDMENT.—  
23          The table of sections at the beginning of chapter 83 of  
24          title 41, United States Code, is amended by adding after  
25          the item related to section 8302 the following new item:

“8302A. Personal protective equipment stockpile and domestic supply chains.”.

1 **SEC. 3. PANDEMIC PREPARATION TAX CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-  
3 chapter A of chapter 1 of the Internal Revenue Code of  
4 1986 is amended by adding at the end the following new  
5 section:

6 **“SEC. 45U. PANDEMIC PREPARATION TAX CREDIT.**

7 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
8 tion 38, the pandemic preparation tax credit determined  
9 under this section for the taxable year is an amount equal  
10 to 20 percent of the expenses paid or incurred by the tax-  
11 payer during such taxable year for purposes of producing  
12 personal protective equipment (including manufacturing  
13 technology upgrades, workforce training expenses, compo-  
14 nents, parts, or raw material used to make personal pro-  
15 tective equipment) that qualifies for addition to the Stra-  
16 tegic National Stockpile under section 8302A(a)(1) of title  
17 41, United States Code.

18 “(b) DENIAL OF DOUBLE BENEFIT.—No deduction  
19 or credit shall be allowed under any other provision of this  
20 chapter with respect to any amount taken into account  
21 in determining the credit allowed to a taxpayer under this  
22 section.

23 “(c) REGULATIONS.—The Secretary shall prescribe  
24 such regulations as are necessary or appropriate to carry  
25 out the purpose of this section.”.



1 (b) CREDIT MADE PART OF GENERAL BUSINESS

2 CREDIT.—Section 38(b) of the Internal Revenue Code of  
3 1986 is amended by striking “plus” at the end of para-  
4 graph (32), striking the period at the end of paragraph  
5 (33) and inserting “, plus”, and adding at the end the  
6 following new paragraph:

7 “(34) the pandemic preparation credit deter-  
8 mined under section 45U.”.

9 (c) CLERICAL AMENDMENT.—The table of sections  
10 for subpart D of part IV of subchapter A of chapter 1  
11 of such Code is amended by adding at the end the fol-  
12 lowing new item:

“Sec. 45U. Pandemic preparation tax credit.”.

13 (d) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years beginning after  
15 the date of the enactment of this Act.

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