

July 30, 2026

The Honorable Howard Lutnick
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230



RE: Request for Eligibility Under clause (3)(d) of Presidential Proclamation 11020 of April 2, 2026, for Non-Opioid Pain Management Products Covered Under the NOPAIN Act

Dear Secretary Lutnick,

Voices for Non-Opioid Choices (“Voices”), a nonpartisan coalition dedicated to preventing opioid addiction by increasing patient access to non-opioid approaches to manage acute pain, respectfully requests that pharmaceutical products eligible for separate payment under the *Non-Opioids Prevent Addiction in the Nation Act* (“NOPAIN”), and their associated ingredients, be designated as eligible specialty pharmaceutical products subject to a zero ad valorem tariff rate under clause (3)(d) of Proclamation 11020 of April 2, 2026, *Adjusting Imports of Pharmaceuticals and Pharmaceutical Ingredients into the United States* (91 Fed. Reg. 18183). These products play a critical and irreplaceable role in addressing the urgent opioid addiction epidemic in the United States. Importantly, the opioid crisis was declared a public health emergency by President Donald Trump in October 2017, and despite some progress, the declaration has remained in place to this day.^{1 2} Federal health agencies already instruct providers to “maximize as appropriate” the use of non-opioid pharmacologic therapies because they “are at least as effective as opioids for many common types of acute pain” and “do not carry the same risks.”³

The NOPAIN Act was signed into law in 2022 following Congress’s bipartisan recognition of the need to improve access to non-opioid pain management options. Effective in 2025, the law allows for separate payment for qualifying non-opioid treatments used in outpatient surgeries performed in hospitals and ambulatory surgical centers.⁴

Preliminary findings from data and surveys tracking the impact of the NOPAIN Act indicate that the policy is working as intended – by increasing use of non-opioid treatments while reducing postsurgical opioid consumption. In 2025, across more than 1,000 hospital outpatient departments studied, use of qualifying treatments increased 12 percent compared to 2024, with the greatest growth among Medicare patients. This increase translates to an estimated 170,000 additional procedures in which patients received access to qualifying non-opioid pain management approaches.

¹ Ending America’s Opioid Crisis. (2018). *Trump White House Archives*.
<https://trumpwhitehouse.archives.gov/opioids/>.

² Secretary Kennedy Renews Public Health Emergency Declaration to Address National Opioid Crisis. (2025, Mar. 18). *U.S. Department of Health and Human Services*. <https://www.hhs.gov/press-room/secretary-kennedy-opioid-crisis-emergency-declaration.html>.

³ Nonopioid Therapies for Pain Management. (2025, Jan. 31). *Centers for Disease Control and Prevention*.
<https://www.cdc.gov/overdose-prevention/hcp/clinical-care/nonopioid-therapies-for-pain-management.html>.

⁴ H.R.3259 - 117th Congress (2021-2022): *NOPAIN Act*. (2021, May 17). *Congress.gov*.
<https://www.congress.gov/bill/117th-congress/house-bill/3259>.

Furthermore, higher adoption of this policy leads to decreased postsurgical opioid consumption. 88 percent of providers reported reducing opioid prescribing following the adoption of qualifying products under the NOPAIN Act in their facilities, and data shows that patients receiving NOPAIN Act-qualifying products require 44 percent fewer opioids than they otherwise may have taken within 24 hours of the procedure.⁵

Higher costs for these drugs, however, could undermine availability, limit patient access, increase provider costs, or slow adoption of therapies that Congress has specifically sought to advance. Providing targeted zero-tariff treatment for these products would advance national healthcare priorities by advancing our shared goal of addressing the ongoing public health emergency. At the same time, domestic manufacturing capacity continues to scale. With a narrow scope limited to NOPAIN Act-eligible non-opioid therapies, this request would carry limited trade implications while supporting patient care and public health.

Listed below are current NOPAIN-qualifying pharmaceuticals.⁶

Generic Name	Brand Name	Manufacturer	Headquartered
Bupivacaine Liposome Injectable Suspension	EXPAREL®	Pacira BioSciences	United States
Phenylephrine	OMIDRIA®	Rayner Pharmaceuticals	United Kingdom
Dexamethasone Ophthalmic Insert	DEXTENZA®	Ocular Therapeutix, Inc.	United States
Ketorolac Tromethamine Injection	N/A	N/A	N/A
Bupivacaine and Meloxicam	ZYNRELEF®	Heron Therapeutics, Inc.	United States
Suzetrigine	JOURNAVX®	Vertex Pharmaceuticals	United States
Intravenous Ibuprofen	Caldolor®	Cumberland Pharmaceuticals	United States

Voices commends the Trump Administration for strengthening America's domestic drug manufacturing and supply chain capabilities. However, many of the innovative, lifesaving NOPAIN-qualifying products use active pharmaceutical ingredients and inert constituents that must currently be imported into the U.S. from non-adversarial partners in Europe and elsewhere.

The diverse and extensive list of ingredients required to manufacture pharmaceuticals that qualify for separate payments under the NOPAIN Act, coupled with limited alternative sourcing for these products, underscores the need to grant them as eligible specialty pharmaceutical products under clause (3)(d), given their unique potential to address an urgent public health need. Restricting access to these drugs

⁵ Oxycodone and acetaminophen (oral route). (2026, Jun. 01). *Mayo Clinic*. <https://www.mayoclinic.org/drugs-supplements/oxycodone-and-acetaminophen-oral-route/description/drg-20074000>.

⁶ Non-Opioid Treatments for Pain Relief. (2026, Mar. 31). *Centers for Medicare and Medicaid Services*. <https://www.cms.gov/medicare/payment/prospective-payment-systems/hospital-outpatient-pps/non-opioid-treatments-pain-relief>.

through import controls risks the progress these agencies have made in combating the opioid addiction crisis and the lives of thousands of Americans.

Thank you for considering this request. Voices can provide additional information regarding the NOPAIN-qualifying products and their role in advancing non-opioid pain management, if appropriate and helpful. If helpful, we are happy to help connect you or your staff with each product's respective manufacturer for more specific supply chain information, including sourcing of active and inactive ingredients and final product furnishing. Members of the Voices team would also be happy to meet with Commerce staff to discuss these issues in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read 'CMF', is positioned above the printed name.

Christopher Fox
Executive Director, Voices for Non-Opioid Choices