



# The Defense Production Act

Center Forward Basics  
June 2022

## Overview

On May 18, 2022, President Joe Biden announced he was invoking the Defense Production Act (DPA) in response to the nationwide infant formula shortage. The DPA will speed the production of infant formula and authorize the Department of Defense to use commercial aircraft to fly formula supplies from overseas to the United States.

The Defense Production Act was enacted on September 8, 1950 at the start of the Korean War. The DPA contains three major sections that allow the federal government to take extraordinary actions to compel companies to prioritize and expedite development of supplies and resources to support national defense. The DPA is implemented and enforced through loans, loan guarantees, purchases and purchase commitments. The administration can force industries to expand production and the supply of basic resources, impose wage and price controls, settle labor disputes, control consumer and real estate credit, establish contractual priorities, and allocate raw materials towards the national defense.

## Historical Uses

Since the 1950s, the Defense Production Act has been reauthorized over 50 times and expanded to include domestic preparedness and national emergencies. For example, the president can make direct loans and purchase commitments, subsidies, or other incentives to influence industry to help in times of crisis. The DPA was first used during the Korean War to establish a large defense mobilization infrastructure and bureaucracy. It helped grow the United States' aluminum and titanium industries by providing capital and interest free loans. In the 1980s, the Department of Defense used the DPA to develop new technologies and materials. President Clinton supplied California utilities with emergency electric power and natural gas during electric blackouts in the early 2000s. In 2011, President Obama used the DPA to force telecommunications companies to provide network and equipment information in order to combat Chinese cyber-spying. In June of 2017, President Trump used the DPA to authorize the Department of Defense to research items related to the space industrial base such as aerospace structures and fibers. On March 18, 2020, President Trump invoked the DPA in response to COVID-19. American industries were forced to ramp up production of critical equipment and supplies such as ventilators, respirators, and personal protective equipment for health care workers. Ultimately, the DPA was involved 18 times for matters related to coronavirus vaccine production. In 2021, the Biden administration used the DPA to address a shortage of fire hoses during an increase of wildfires across the nation.

## Baby Formula Shortage

Towards the end of 2021, baby formula began going out of stock across the nation. In February 2022, Abbott Nutrition recalled some of their formula that was produced in the nation's largest plant due to contamination issues. This recall exacerbated the ongoing formula supply chain disruptions due to the COVID-19 pandemic. Specifically, between November 2021 and early April 2022, the out-of-stock rate for baby formula jumped to 31%. That rate increased by another 9% in April and now is about 40%. Additionally, the average cost of the most popular formula brands has increased almost 18% in the past year. Millions of parents in the U.S. use baby formula to keep their babies healthy - roughly three out of four infants rely on formula during their first six months. The increased cost and lack of availability of baby formula has caused panic and stress for American families.

## Center Forward Basics

Center Forward brings together members of Congress, not-for profits, academic experts, trade associations, corporations and unions to find common ground. Our mission: to give centrist allies the information they need to craft common sense solutions, and provide those allies the support they need to turn those ideas into results.

In order to meet our challenges we need to put aside the partisan bickering that has gridlocked Washington and come together to find common sense solutions.

For more information, please visit [www.center-forward.org](http://www.center-forward.org)

The most vulnerable children have been affected the greatest, including those whose parents are unable to spend hours searching for formula online or in person, and preemies and medically complex babies who require specialized nutritional support.

By invoking the DPA, suppliers of formula manufacturers will have to fulfill orders from companies before other customers. On May 16, 2022, regulators said they had reached a deal to allow Abbott Nutrition to restart production in the plant. Abbott said it will likely take eight to ten weeks before their products begin arriving in stores again. Additionally, the U.S. is launching Operation Fly Formula to increase imports of baby formula from abroad. The Departments of Agriculture and Health and Human Services will use commercial aircraft that have contracts with the Pentagon to deliver formula. On May 22, 2022, a U.S. military plane delivered over 70,000 pounds of prescription baby formula from Europe that will be distributed to hospitals, doctors, and pharmacies - it is only enough formula to feed 9,000 babies and 18,000 toddlers for one week. The White House said the "total amount of formula arriving in the first round of Operation Fly Formula" is the equivalent of 1.5 million doses of eight-ounce bottles.

On May 21, 2022, President Biden signed the bipartisan Access to Baby Formula Act into law. This [bill](#) passed the House of Representatives on a bipartisan basis (414 to 9) on May 18, 2022. It gives the Department of Agriculture the ability to issue a narrow set of waivers in the event of a supply disruption. It is aimed at giving Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) recipients the ability to purchase formula from any producer rather than be limited to one brand. The WIC program accounts for about half of infant formula sales in the U.S. The House of Representatives also passed the [Infant Formula Supplemental Appropriations Act](#), a \$28 million emergency spending bill aimed at boosting resources at the Food and Drug Administration. The emergency funding will be allocated to increase the number of FDA inspection staff, provide resources for personnel working on formula issues, and help the agency stop fraudulent baby formula from entering the U.S. marketplace. This bill passed with just 19 Republican votes and is unlikely to pass in the Senate.

## Links to Other Resources

- Bloomberg - [Obama Invokes Cold-War Law to Unmask Chinese Telecom Spyware](#)
- CDC - [Healthcare Supply of Personal Protective Equipment](#)
- CNN - [Baby formula arrives in Indianapolis from Germany on US military aircraft to address critical need](#)
- CNN - [House passes \\$28 million in emergency funding to address baby formula shortage](#)
- FEMA - [Defense Production Act](#)
- NPR - [Biden invokes the Defense Production Act for the baby formula shortage](#)
- The New York Times - [U.S. Virus Plan Anticipates 18-Month Pandemic and Widespread Shortages](#)
- United States Senate Committee on Agriculture, Nutrition, & Forestry - [President Biden Enacts Bipartisan Law to Address Baby Formula Shortage](#)
- The Washington Post - [Trump says he will invoke Defense Production Act to marshal private sector in response to coronavirus pandemic](#)
- The Washington Post - [Why Biden is using the Defense Production Act for the baby formula shortage](#)
- The White House - [Letter from the President -- Defense Production Act of 1950](#)