

# DAILY BEAST

## Stop Using the Defense Production Act and Antitrust to Fix Government-Created Problems

By Taylor Millard  
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Democrats in Washington have a problem, and not because [polls indicate they'll be swept from power in Congress](#) this November. They acknowledge that rapidly rising inflation combined with a [mangled supply chain](#) keeps the economy listless. And yet, the only solutions they seem capable of coming up with are [using the Defense Production Act](#) and [antitrust](#).

The [Defense Production Act \(DPA\)](#), first approved in 1950, says it's imperative for the domestic industrial base to "supply materials and services for the national defense." It specifically mentions military conflicts, domestic terrorism, and national or man-caused disaster preparation. The president can use the DPA to control domestic distribution if it involves "a scarce and critical material essential to the national defense." It also allows the White House to come up with incentives for private companies to come up with expanded production capacity if it's for "the execution of the national security strategy of the United States." It's clear that this law is meant to benefit the Pentagon above all else.

President Joe Biden first invoked the DPA in [March 2021](#) over precious metals. The White House said the order helps "bolster our clean energy economy by reducing our reliance on China and other countries" for metals and minerals used for clean energy. It seems that relying on Canada, Brazil, and Australia [failed](#) as a policy for the administration. Whether it means the federal government will [approve](#) or [reauthorize](#) two precious metal projects in Minnesota remains to be seen.

Biden's next Defense Production Act [target](#) involved baby formula. The White House grew concerned months after Abbott Nutrition [issued](#) a voluntary recall because of five cases involving possible Salmonella Newport and/or *Cronobacter sakazakii* contamination. Nothing was found in tests by Abbott, except for traces of *Cronobacter sakazakii* in "non-product contact areas." But, since [two babies died](#), the Food and Drug Administration (FDA) temporarily closed the plant for an investigation despite [not knowing](#) the source of the contamination. (Health and Human Services (HHS) [is reviewing](#) the FDA's decision to close the plant.)

The president seemed flummoxed weeks later that putting the DPA in action didn't immediately solve the problem. Baby formula makers [told](#) the White House that they knew the recall and plant closure would cause shortages and empty shelves. The Biden administration blamed Abbott

Nutrition for taking too long to agree to a plant reopening plan. But the administration also sent mixed messages on exactly when the White House started working on the formula shortage.

Biden's three latest DPA declarations happened this month [involving green energy](#). He said America's future depended on its abilities to make solar panels, insulation, electrolyzers, and batteries. The order includes more clean energy projects on public land and artificially stimulating solar panel demand [for](#) about a "gigawatt of domestically produced solar modules in the near term."

Now the White House may use the DPA on oil prices. Democratic Rep. Raja Krishnamoorthi [told](#) CNN that "we're refining about one million barrels of oil less per day compared to before the pandemic." He wants the DPA used to reopen 11 closed refineries in the U.S., and Biden is apparently considering it.

Why did the closures happen?

Stricter federal and global regulations were the culprits, [according](#) to a report from credit rating agency and economic forecaster Fitch Solutions Country Risk & Industry Research sent to Rigzone, a site covering the oil and gas industry. Fitch analysts said these moves caused Big Oil to pivot more towards clean energy to stay in business. That transition exacerbated gasoline prices, which have been rising since May 2020, combined with ballooning inflation.

*"And baby formula? How the hell does that equal national defense? It's not like the Department of Defense will suddenly start employing baby soldiers to fight wars."*

It's questionable whether any of these DPA declarations fall within the purview of national defense. Biden's order on precious metals and green energy fail to mention how the military benefits from the use of electric vehicles, solar panels, and charging stations. They can benefit from the stationary storage sector, but a study by Dutch financial institution Rabobank [determined](#) that Lithium-ion batteries last only four hours. It could be a decade until large-scale energy storage works from a cost and feasibility standpoint. The Pentagon [admitted](#) last year it will take time to develop more clean energy technology.

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"The DPA is primarily a tool for telling certain manufacturers to prioritize government contract or to get certain more easier beneficial terms on things to get things made quickly," said Eric Gomez, director of defense policies studies at the libertarian-leaning Cato Institute, when asked about the use of the DPA on baby formula production. "The connection to defense is often tenuous...stuff like the the baby formula charge has nothing to do with the national defense" baby formula charge has nothing to do with the national defense."

Gomez's concern is that the DPA becomes a short-term crutch for the federal government. "It allows us to punt on bigger questions of what could either fix this in a more sustainable way, or get us to make some bigger changes that we ought to be making in our policies," Gomez said. He also notes that the government tends to ignore problems when there's not a crisis. Republican Sen. Pat Toomey raised his own concerns about the DPA overuse, [suggesting](#) it was time for Congress to step in to limit its mission creep.

Biden's use of DPA also ties into the administration and congressional Democrats' desire for more antitrust as a tool against inflation. Democrats—and many Republicans—want to [use antitrust](#) used to break up Big Tech, lower shipping costs, and [target](#) drugmakers on what the Federal Trade Commission (FTC) has called illegal rebate schemes. This includes Democratic Sens. Elizabeth Warren and Tammy Baldwin's anti-price gouging bill, which insists corporate greed is why prices jumped. The Consumer Financial Protection Bureau ([CFPB](#)) [also uses](#) antitrust, even though [critics](#) call their moves too vague.

It's a theory that Joshua Withrow, a fellow at the free market-supporting R Street Institute, sees as another ridiculous example of politicians giving into the so-called “do something” game. “It's just a squirrel they want the public to chase,” Withrow told The Daily Beast, putting the onus on the federal government's 2021 spending spree. He added: “Not that some lawmakers don't sincerely want to use antitrust because they're afraid of corporate ‘bigness’ for its own sake, but I think the [administration] mostly just wants the distraction.”

What's particularly noteworthy is that left-leaning economists also see this antitrust push as ridiculous.

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Former Obama administration official Austan Goolsbee quipped: “How are we back on this again?” in a [recent survey](#) by the Initiative on Global Markets looking at gas price controls. Former Clinton administration Treasury Secretary Larry Summers [slammed](#) the Biden administration’s antitrust push as counterproductive, tweeting that the policies “may reduce efficiency and, by

lengthening supply chains, reduce resilience.” *The Washington Post*’s Catherine Rampell [wrote](#) that using antitrust to tackle what Biden, Warren, and others call “greedflation” is giving into a conspiracy theory because of how much money is currently in the market.

Perhaps the most frustrating thing is that solutions exist in reducing inflation and increasing supply, but they’re being ignored for politics. The administration may lower [some](#) Trump administration tariffs. That’s a good start, but not enough. More tariffs need to go away, the sooner the better. The [Federal Reserve needs to keep raising interest rates](#) and sell off its balance sheet. Congress and the White House can’t keep spending money at an exorbitant rate, because that further centralizes power within the federal government.

Weaker government, not stronger, fixes this mess.