



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N. Y. 10007

Emergency Executive Order No. 98

May 21, 2022

INFANT FORMULA SHORTAGE

WHEREAS, in February 2022, concerns about contamination at the Sturgis, Michigan facility of Abbott Nutrition, the largest manufacturer of infant formula in the United States, led to a voluntary recall of several lines of powdered formula and the temporary closure of the Sturgis facility; and

WHEREAS, the closure of the Sturgis facility, along with supply chain problems caused by the COVID-19 pandemic and other issues affecting the national economy, have led to shortages in infant formula; and

WHEREAS, there is a shortage of specialty formulas, which presents a particular difficulty for families that rely on such formulas due to allergies or medical necessity; and

WHEREAS, on May 16, 2022, the Food and Drug Administration (“FDA”) reached an agreement with Abbott Nutrition to safely recommence production in the Sturgis, Michigan facility by the end of the month, but it is anticipated that it will take up to eight weeks for the re-opening to result in more formula on store shelves; and

WHEREAS, according to the Centers for Disease Control and Prevention, the majority of parents and caregivers in New York City rely on some amount of formula to feed their babies; and

WHEREAS, the FDA has called on companies to issue purchasing limits to limit predatory behavior, and the Department of Justice has encouraged state attorneys general to use their powers to monitor and address price gouging in the infant formula market; and

WHEREAS, on May 18, 2022, President Biden, citing an “acute disruption” in the supply of infant formula, invoked the Defense Production Act to ensure that manufacturers have the necessary ingredients to make safe and healthy infant formula, and has required suppliers to direct needed resources to infant formula manufacturers; and

WHEREAS, to accelerate the import of infant formula, President Biden has also directed the Department of Health and Human Services and the Department of Agriculture to use Department of Defense commercial aircraft to transport infant formula that meets U.S. health and safety standards to the United States; and

WHEREAS, the current difficulties parents and caregivers are experiencing in obtaining infant formula in New York City and nationwide have been widely reported; and

WHEREAS, the New York City Department of Consumer and Worker Protection has received complaints concerning allegations of sellers charging excessive prices for infant formula, and, pursuant to section 5-42 of Title 6 of the Rules of the City of New York, it is an unconscionable trade practice to sell or offer for sale certain goods, including infant formula, at an excessive price during a declared state of emergency in New York City; and

WHEREAS, the inability of parents and caregivers to obtain infant formula poses an imminent threat to the health and safety of infants in New York City;

NOW, THEREFORE, pursuant to the powers vested in me by the laws of the State of New York and the City of New York, including but not limited to the New York Executive Law, the New York City Charter and the Administrative Code of the City of New York, and the common law authority to protect the public in the event of an emergency, it is hereby ordered:

Section 1. State of Emergency. A state of emergency related to a shortage in the supply of infant formula is hereby declared to exist within the City of New York.

§ 2. I hereby direct all agency heads, including the Department of Health and Mental Hygiene, the Department of Consumer and Worker Protection, the Department of Social Services, and the Mayor's Office of Food Policy to take all appropriate and necessary steps to preserve public health while the shortage of infant formula persists.

§ 3. I hereby direct the Department of Consumer and Worker Protection to exercise its authority under section 5-42 of Title 6 of the Rules of the City of New York to prevent the charging of excessive prices for infant formula.

§ 4. This Executive Order shall take effect immediately. The State of Emergency shall remain in effect for a period not to exceed thirty (30) days or until rescinded, whichever occurs first. Additional declarations to extend the State of Emergency for additional periods not to exceed thirty (30) days shall be issued if needed.



Eric Adams
Mayor