

DOCUMENT 3

National Emergencies Act, Sections 201 and 301

Fact Sheet

The National Emergencies Act (NEA) authorizes the president to declare a “national emergency.”¹A declaration under NEA triggers emergency authorities contained in other federal statutes. Past NEA declarations have addressed, among other things, the imposition of export controls and limitations on transactions and property from specified nations.²A national emergency was declared in 2001 after the September 11th terrorist attacks and has been renewed every year since then.

What the Law Does

The NEA authorizes the president to declare a national emergency, which declaration activates emergency powers contained in other federal statutes.³During the 2009 H1N1 influenza pandemic, the president’s declaration of a national emergency under the NEA, coupled with the HHS secretary’s prior determination of a public health emergency under Section 319 of the Public Health Service Act (PHSA), permitted the activation of Social Security Act (SSA) Section 1135 waiver authorities. (See Figure A for the text of the 2009 H1N1 NEA declaration.)

How the Law Works

The NEA does not provide any specific emergency authority on its own, but relies on emergency authorities provided in other statutes. A national emergency declaration allows for the activation of these other statutory authorities. Emergency statutory provisions are not activated automatically, however; they must be specifically identified in the president’s declaration before these authorities may be given effect.

Declaration

NEA Section 201 authorizes the president to declare a national emergency. The proclamation of a national emergency must be immediately transmitted to Congress and published in the *Federal Register*.^{1,2}Under NEA Section 301, statutory emergency authorities enabled by the national emergency declaration cannot be exercised until the president specifies the provisions of law under which the president or other officials will act. Such specification may be made either in the declaration or in subsequent Executive Orders published in the *Federal Register* and transmitted to Congress.

Termination

A national emergency can be terminated if the president issues a proclamation or if Congress enacts a joint resolution terminating the emergency. A national emergency will terminate automatically upon the anniversary of the proclamation unless the president renews the proclamation by transmitting notice to Congress within a 90-day period prior to the anniversary date and publishing it in the *Federal Register*.ce, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

Source:

<http://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Emergency-Authority-and-Immunity-Toolkit/National-Emergencies-Act.-Sections-201-and-301-Fact-Sheet/>