

Effects of Terminating the Coronavirus Disease 2019 (COVID-19) PHE and NEA Declarations

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In response to the COVID-19 pandemic, federal officials issued declarations of emergency and disaster pursuant to multiple emergency authorities, including Section 319 of the [Public Health Service Act](#) (PHSA; P.L. 78-410, as amended; 42 U.S.C. §§201-300mm-61); the [National Emergencies Act](#) (NEA; P.L. 94-412, as amended; 50 U.S.C. §§1601 et seq.); and the [Robert T. Stafford Disaster Relief and Emergency Assistance Act](#) (Stafford Act; P.L. 93-288, as amended; 42 U.S.C. §§5121 et seq.). Although the Public Health Emergency declaration (COVID-19 PHE) under PHSA Section 319, the COVID-19 NEA declaration, and the Stafford Act declarations for COVID-19 all address the pandemic, they are distinct, independent authorities. The COVID-19 PHE and the COVID-19 NEA declaration authorized federal assistance and other activities, and invoked standby authorities. The Stafford Act declarations authorized federal disaster assistance.

Officials subsequently renewed the PHE and NEA declarations to support the pandemic response, but on January 30, 2023, President Joseph R. Biden, Jr. [announced his Administration's plans](#) for a “wind-down” period. The [President initially anticipated terminating the COVID-19 NEA declaration](#) on May 11, 2023, but on April 10, 2023, signed H.J.Res. 7, terminating the COVID-19 NEA declaration upon enactment. [HHS is planning for the COVID-19 PHE declaration to expire](#) on May 11, 2023. On January 31, 2023, the House passed H.R. 382, which would terminate the COVID-19 PHE declaration upon enactment.

On February 9, 2023, [FEMA announced](#) that it will [close all of the COVID-19 disaster declaration incident periods](#) on May 11, 2023 (see [CRS Insight](#) for more information).

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Processes to Terminate the Section 319 PHE and NEA Declarations

PHEs under PHSA Section 319 expire 90 days after the initial declaration date, or upon an HHS Secretary's declaration that a PHE no longer exists, whichever happens first. Since the [initial COVID-19 PHE declaration](#) on January 31, 2020, it has been renewed thirteen times (2020: [April, July, October](#); 2021: [January, April, July, October](#); 2022: [January, April, July, October](#); 2023: [January, February](#)).

NEA national emergencies [terminate several ways](#): the President can issue a proclamation terminating the emergency; Congress and the President can enact a [joint resolution](#) terminating the emergency; or the President can let the period for renewal lapse, and the emergency will automatically terminate on its anniversary. Since [Proclamation 9994](#) issued the COVID-19 NEA declaration, it was continued three times (in February [2021](#), [2022](#), and [2023](#)), prior to being [terminated](#).

Effects of Terminating the Section 319 PHE and/or NEA Declarations

Section 319 PHE Termination

Section 319 of the PHSA permits the HHS Secretary to take various actions in response to a PHE (e.g., enter into contracts and conduct relevant investigations). Other statutes may, in turn, authorize agencies to take additional actions while a Section 319 PHE declaration is in effect. Under [Section 1135 of the Social Security Act](#), for instance, a Section 319 PHE declaration is a necessary condition for the HHS Secretary to exercise their authority to waive or modify certain Medicare, Medicaid, CHIP program, and HIPAA requirements—referred to as Section 1135 waivers.

Additionally, significant legislation referenced the COVID-19 PHE declaration, including the CARES Act (P.L. 116-136), the American Rescue Plan Act of 2021 (P.L. 117-2), and the Consolidated Appropriations Act, 2021 (P.L. 116-260). These laws authorized numerous recovery support actions related to agriculture, consumer protection, first responder benefit eligibility, health care, Indian health, labor and employment, legislative branch operations, military construction, nutrition assistance, telecommunications, and veterans affairs.

It may be difficult to determine the impact the COVID-19 PHE declaration's termination will have on a particular waiver, flexibility, program, or agency. Some may be dependent on the PHE declaration specifically, and others may be dependent on other factors, such as funding availability, an agency's interpretation of authority, or authority derived from concurrent emergency declarations. As such, some waivers, flexibilities, or programs may continue after the PHE declaration ends—necessitating individual consideration. On February 9, 2023, HHS issued a [Fact Sheet on the transition](#) away from the COVID-19 PHE. Congressional offices may contact CRS for specific considerations.

NEA Termination

NEA declarations permit the President to invoke standby authorities. Over the course of the COVID-19 NEA declaration, such authorities included waivers related to the Defense Production Act ([Executive Order \(E.O.\) 13911](#)); activation of Ready Reserve units and members, activation of U.S. Coast Guard retirees, and deferral of end-strength limitations ([E.O. 13912](#)); temporary extensions of deadlines for importers ([E.O. 13916](#)); waivers/modifications of certain student loan provisions (Education Department waivers and modifications at [85 Federal Register 79856](#)), including [suspension of payment and interest](#)

accrual for those affected by the pandemic and a proposed [one-time cancellation policy](#). Congress also enacted legislation authorizing numerous actions with durations tied to the COVID-19 NEA declaration, including provisions related to banking and finance, the federal budget, criminal justice, defense, defense procurement, income security, intellectual property, small businesses, transportation, and veterans affairs.

Terminating an NEA declaration discontinues the exercise of invoked powers and authorities, but [there are exceptions](#). As such, some actions taken during the COVID-19 NEA declaration may not be immediately affected, requiring individual consideration. Congressional offices may contact CRS for specific considerations.

Effect on “Title 42” Entry Restrictions

There is congressional interest in whether terminating the COVID-related Section 319 PHE and/or NEA declarations would terminate the CDC order [directing](#) immigration officials to expel certain aliens (often called “Title 42”). Although the invocation of such authority to suspend the introduction of individuals under [42 U.S.C. §265](#) does not require either a PHE or NEA declaration, the current Title 42 order [provides](#) that it remains in effect until either the expiration of the COVID-19 PHE or a further determination by CDC, whichever occurs first. Thus, termination of the COVID-19 PHE declaration could likely end the current Title 42 order, absent any further determination by the CDC Director. The expiration of the Title 42 order will also likely impact [ongoing litigation](#).

Resources

CRS Insight IN12106, *Closing the Incident Period for the Stafford Act Declaration for the COVID-19 Pandemic*

CRS Infographic IG10029, *Federal Emergency Declarations*

CRS Report R46809, *Federal Emergency and Major Disaster Declarations for the COVID-19 Pandemic*

Author Information

Elizabeth M. Webster, Coordinator
Analyst in Emergency Management and Disaster
Recovery

Hassan Z. Sheikh
Analyst in Health Policy

Erica A. Lee
Analyst in Emergency Management and Disaster
Recovery

Audrey Singer
Specialist in Immigration Policy

Kelsey Y. Santamaria
Legislative Attorney

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