



National Emergencies Act Expenditure Reports

August 3, 2023

The President is authorized to declare a national emergency pursuant to the National Emergencies Act of 1976 (NEA; P.L. 94-412; [50 U.S.C. §§1601 et seq.](#)), which enables the President to invoke various standby authorities in response to the declared incident. The NEA also includes presidential accountability and reporting requirements. This Insight provides a brief overview of the requirement that the President transmit [expenditure reports](#) to Congress. It also describes potential ways to locate these required congressional reports and offers considerations for ensuring that NEA expenditure reporting occurs.

NEA Expenditure Reporting Requirement

The NEA requires that the President report to Congress the total expenditures incurred by the U.S. government “which are directly attributable to the exercise of powers and authorities conferred by such declaration” ([50 U.S.C. §1641\(c\)](#)). The statute requires the President to submit such reports:

- within 90 days after the end of each six-month period following an NEA declaration; and
- not later than 90 days after an NEA declaration is terminated.

Locating Expenditure Reports

Agencies may submit physical copies of [required reports to congressional committees, committee leadership, or Congress in general](#) without a specified recipient—including NEA expenditure reports. Written reports due to “Congress” are typically submitted as Executive Communications (ECs). The House and Senate Executive Clerks’ Offices record the EC submission and create an abstract for publication in the *Congressional Record*. EC submission records can be searched on [Congress.gov](#).

Because the House and Senate Executive Clerks’ Offices deliver report documents to the congressional committee(s) of referral after recording the report submissions, the House and Senate Parliamentarian’s Offices and House and Senate Executive Clerk’s Offices do not retain copies of submitted written reports. Thus, full-text versions of reports are generally available only in internal committee records unless they are further published by the respective committee or executive branch agency. There is currently no single repository for reports submitted to Congress. As such, copies of these reports may be difficult to obtain.

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IN12213

CRS identified EC submission records in the House and Senate Communications database on Congress.gov that show evidence of the submission of expenditure reports with respect to national emergencies under the NEA that invoke the International Emergency Economic Powers Act (IEEPA; P.L. 95-223; [50 U.S.C. §§1701 et seq.](#)). However, CRS was unable to identify recorded instances in the Communications database of EC submissions of expenditure reports from NEA declarations that invoke standby authorities exclusive of IEEPA. This does not necessarily mean these expenditure reports have not been submitted. If a submission is not recorded because a report was directly submitted to a committee, [committee clerks or congressional liaisons may be able to assist](#) congressional staff in determining its status. (The presidential NEA declarations invoking IEEPA [authorized the Treasury Secretary](#) to submit expenditure reports, but similar reporting delegation language is not included in NEA declarations exclusive of IEEPA.)

Considerations in the Context of COVID-19

The President and Secretary of Health and Human Services (HHS) issued several emergency and disaster declarations in response to the Coronavirus Disease 2019 (COVID-19) pandemic, including President Donald J. Trump’s March 13, 2020, declaration that the pandemic was a national emergency pursuant to the NEA ([Proclamation 9994](#)). The President then invoked several [NEA standby authorities](#), including those that permitted:

- the HHS Secretary to exercise his [authority under Section 1135](#) of the Social Security Act;
- the Secretaries of Defense and Homeland Security (DHS) to [order members of the Ready Reserve to active duty](#);
- the Secretaries of HHS and DHS to submit for presidential approval [proposals for loans](#) “to avert an industrial resource or critical technology shortfall that would severely impair national defense capability” and [waiving certain requirements of the Defense Production Act of 1950](#); and
- the Treasury Secretary to [extend the time for performance for importers](#).

Some [Members of Congress have requested the COVID-19 NEA expenditure reports](#). On July 7, 2023, President Joseph R. Biden Jr. issued a [memorandum delegating the authority to submit the COVID-19 NEA expenditure reports to the Secretary of HHS](#), in consultation with the Treasury Secretary. This delegation of authority may help address concerns previously expressed by Congress regarding the apparent unavailability of the COVID-19 NEA expenditure reports if HHS, with the Treasury, proffers such reports.

The example of the COVID-19 NEA expenditure reports illustrates general issues related to NEA expenditure report submission. To address potential congressional concerns related to such reports, Congress could consider:

- Amending the Access to Congressionally Mandated Reports Act (“the Act”; Subtitle D of P.L. 117-263) to include the President, Vice President, and/or Executive Office of the President (see, for example, [44 U.S.C. §3502\(1\)](#), which includes the Executive Office of the President in its definition of the term *agency*). The Act requires the Director of the Government Publishing Office to make congressionally mandated reports by federal agencies publicly available via an online portal, which could make them easier to locate. (Submitting reports to the Director does not satisfy the requirement to submit reports to Congress.)

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- Defining (or requiring the Office of Management and Budget to define) *directly attributable* for purposes of NEA expenditure reporting. Congress could consider requiring the President to provide an explanation as to why there were not directly attributable expenditures in the event a national emergency does not incur such expenditures, or requiring that expenditure reports be submitted regardless of whether expenditures are directly attributable.
- Requiring the federal agencies responsible for executing the powers and authorities invoked pursuant to an NEA declaration—rather than the President—to submit expenditure reports directly to Congress. Congress could also consider requiring an Administration and/or agency representative to brief the committees of jurisdiction on the exercise of NEA-invoked powers and authorities and provide an accounting of expenditures incurred.
- Further defining the manner, format, and content of NEA expenditure reports (e.g., to specific committees or including specific contents, such as is required by [15 U.S.C. §636k](#)).

NEA reform legislation has been introduced in the 118th Congress, but the “ARTICLE ONE Act,” as introduced in both the House (H.R. 3988) and Senate (S. 1912), would not amend the current expenditure reporting requirements.

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