



Written by [Alex Newman](#) on October 27, 2009

Swine Flu Emergency Declaration Elicits Questions, Criticism

President Barack Obama granted himself more broad powers late last week when he declared the swine flu outbreak a national emergency, announcing the decision over the weekend to a chorus of ridicule and fiery criticism.



Officials tried to downplay the importance of the move, with many major media outlets largely echoing government commentators.

"This is not a reaction to any new developments; it's a proactive step, a useful tool going forward," said White House spokesman Reid Cherlin, quoted in a *USA Today* article entitled "['National emergency' for H1N1 no cause for alarm, experts say.](#)"

Some officials are comparing it to declarations of emergency before hurricanes hit land.

The widely touted effect of this emergency declaration is that the Department of Health and Human Services (HHS) will be able to waive some bureaucratic regulations involving hospitals and government programs like Medicare, Medicaid, and others. The order would allow hospitals to bypass federal rules and set up emergency rooms off site to deal with a mass influx of patients, for example.

An anonymous administration official told [CNN](#) that it also "gives the federal government more power to help states." It also helps to implement government triage plans, like one being developed in Florida that calls for pulling the plug on certain people and rationing medical care. In addition, the presidential order further mobilizes the Federal Emergency Management Agency to prepare for potential disaster.

But there is more than simple administrative processes at work. "The stakes just got raised with this proclamation," Arizona State University health law professor James G. Hodge, Jr. told the [Washington Post](#). "Broader powers of the federal government are now authorized to respond to the emerging outbreak."

Some analysts are warning about the extraordinary claimed authorities associated with the emergency decrees. Mike Adams, editor of *Natural News*, highlights some of the purported presidential powers in an article entitled "President Obama declares national emergency over swine flu pandemic; but why?" These include the potential for forcing U.S. citizens to receive vaccinations or be quarantined and even the "effective nullification of the Bill of Rights," he said.

[Other commentators have even suggested the possibility of martial law.](#)

Congress' research arm confirmed the draconian powers that the President claims for himself.

"Emergency powers are not solely derived from legal sources. The extent of their invocation and use is



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also contingent upon the personal conception which the incumbent of the Presidential office has of the Presidency and the premises upon which he interprets his legal powers," wrote the non-partisan Congressional Research Service in a 2007 report about "National Emergency Powers," citing an "authority." "In the last analysis, the authority of a President is largely determined by the President himself.

The report further notes that under the existing system, "The President may seize property, organize and control the means of production, seize commodities, assign military forces abroad, institute martial law, seize and control all transportation and communication, regulate the operation of private enterprise, restrict travel, and, in a variety of ways, control the lives of United States citizens."

So far about 1,000 people have died from swine flu-related complications in the U.S., according to the Centers for Disease Control and Prevention (CDC). Globally, the World Health Organization claims about 5,000 deaths were linked to the disease. The New York Times [reported](#) that millions of Americans have been infected and cites officials who claim there have been about 20,000 hospitalizations.

But on average, the CDC claims 36,000 deaths each year are linked to the seasonal flu. Also, the flu season in the Southern Hemisphere is on its way out, and so far the virus has proven extremely mild. And a recent [CBS investigation](#) pointed out that numbers of swine flu victims have been widely inflated. Many observers are wondering what makes the swine flu a veritable emergency in the first place, leading to speculation about what it means.

California Governor Arnold Schwarzenegger had already declared a state of emergency over the swine flu outbreak back in April. HHS also issued a "formal declaration of a Public Health Emergency" in April even though there had only been 20 confirmed cases of the H1N1 virus.

However unbeknownst to many Americans, the United States was already under a state of national emergency even before the swine flu proclamation. In September, President Obama issued an ["Emergency Executive Order"](#) dealing with terrorism to extend the state of national emergency originally declared by Bush in 2001 for another year. So even without the swine flu "emergency," the executive branch was already claiming the extensive powers purportedly granted by these executive orders.

The administration emphasized that this new declaration was not in response to any developments. Officials also said it has nothing to do with the number of [questionable vaccines](#) available being far below the government's original estimates. It is simply a "proactive" measure, the White House insists. The preparations for a swine flu outbreak developing over the last several months have become increasingly more [militarized and draconian](#), however this trend has gone largely unnoticed by the main stream media.

But the emergency declaration issue has brought a number of questions into the public debate. Why is government continually behaving as a nanny for the American people, warning them to stay home and take their shots and wash their hands? Why is the President declaring emergencies and claiming for himself extraordinary authorities — particularly when there is not even a semblance of need? Where is any of this authorized in the Constitution?

In fact, there isn't any authority for this in the Constitution. Emergency declarations do not trump the Supreme Law of the Land, no matter what the President or the media may claim. Hospitals should not be regulated by the federal government in the first place, particularly since it has no authority to do so. Vaccines and treatment, if necessary, will be provided far more efficiently by the private sector. So it is



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past time to put the government back in its constitutional box and for Americans to assume personal responsibility for their health and decisions.

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