

What the Energy Sector Needs to Know about the CARES Act

Monday, March 30, 2020

Overview

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (“[CARES Act](#)”), the third and by far the largest stimulus package passed by Congress to respond to the COVID-19 outbreak. As discussed in our [main alert](#), the \$2 trillion CARES Act amounts to what will be the biggest economic stimulus package in American history.

A number of specific provisions in the Act are aimed at energy infrastructure, cybersecurity, and low income heating assistance. While few provisions in the Act are targeted at competitive power producers specifically, other provisions and programs may ultimately be of benefit to the energy industry. Specifically, provisions increasing in funding to the Department of Energy, Nuclear Regulatory Commission, and Environmental Protection Agency may provide indirect benefits to energy companies.

Key Points

Business Loan Programs

The Act makes available billions of dollars in low-interest loans to any eligible business in the United States, which includes businesses in the energy sector. Details of these programs are below.

Lending to Eligible Businesses: The Act provides \$454 billion in low-interest loans, loan guarantees, and other investments in programs or facilities established by the Federal Reserve to support lending to eligible businesses, States, or municipalities. The legislation includes a directive to the Secretary of Treasury to establish a program from these funds to provide low-interest loans to mid-sized businesses with between 500 and 10,000 employees. All businesses receiving loans under this program must agree to certain conditions including maintaining 90 percent of their workforce on payroll through September 2020, restricting dividends or stock repurchases while the loan is outstanding, and restricting outsourcing or offshoring for two years after completing repayment of the loans.

Paycheck Protection Program for Small Businesses: The Act allots approximately \$350 billion to help small businesses, including non-profits, maintain their payrolls for eight weeks. The legislation authorizes the Small Business Administration to provide businesses with fewer than 500 employees loans of up to \$10 million per business to cover payroll and other authorized expenses. The Government will forgive the loans for businesses that maintain their payroll and only use the funds to cover authorized expenses. The program is available until June 30, 2020.

Agency Funding

The Act includes **\$221 million** for federal agencies to respond to coronavirus impacts on operations, including equipment and IT support to improve teleworking capabilities vital to continued operations, as well as supporting research into the coronavirus by the Department of Energy. Highlights include:

Department of Energy

- **\$28 million** to the Department of Energy's Department of Administration to prepare for and respond to the coronavirus.
- **\$99.5 million** is provided to the Department of Energy's Office of Science for costs related to equipment, personnel, and operations to support research on the coronavirus.

Department of Homeland Security

- **\$9.1 million** to address immediate needs for improved interagency coordination for the protection of critical infrastructure nationwide.

Nuclear Regulatory Commission

- **\$3.3 million** to prepare for and respond to the coronavirus.

Environmental Protection Agency

- **\$7.2 million** to support research efforts regarding coronavirus; staffing and associated costs for expediting registrations and other actions related to addressing coronavirus; cleaning and disinfecting of the agency's facilities; and enhancing the agency's telework infrastructure.

U.S. Army Corps of Engineers

- **\$70 million** to prepare for and respond to the coronavirus by providing additional equipment, licenses, and IT support to improve teleworking capabilities and ensure secure remote access for Corps staff.
- Funding will also improve capacity for remote operations for Corps projects and activation of Emergency Operations Centers nationwide to support continued operations of Corps projects.

Department of the Interior/Bureau of Reclamation

- **\$20.6 million** to the Bureau of Reclamation to prepare for and respond to the coronavirus by providing additional equipment, licenses, and IT support to improve teleworking capabilities and secure remote access.

Department of Health and Human Services

- **\$900 million** to the Low Income Home Energy Assistance Program help lower income households heat and cool their homes.

Looking Ahead

The energy sector and the regional electric grid faces numerous challenges with respect issues created by the current crisis, including reliability, resilience, cybersecurity, and emissions. The CARES Act provides certain relief to support the sector as a whole, but it remains to be seen, whether Congress will need to pass additional relief to assist the energy sector in the months to come.

Foley Hoag has formed a firm-wide, multi-disciplinary [task force](#) dedicated to client matters related to the novel coronavirus (COVID-19). For more guidance on your COVID-19 issues, visit our [Resource Page](#) or contact your Foley Hoag attorney. For guidance on COVID-19 Energy sector issues, please contact [Kevin Conroy](#), [Tad Heuer](#), or [Carol Holahan](#).