

COVID-19: Congressional, Federal Agency and Electric Sector Planning for Continued Operations

MARCH 21, 2020 – 10:15 AM

Congress

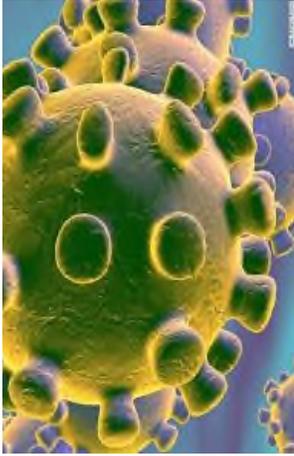
Congress has shifted its attention to crafting the third legislative approach to bolstering the economy referred to as “Phase 3”. Senate Leaders intended to have struck a deal on Phase 3 by midnight on March 20, however, no agreement has yet been reached. This next legislative package will focus on economic aid for specific sectors that have been impacted by the pandemic.

On March 19, Senate Republicans released S. 3548, the “Coronavirus Aid, Relief, and Economic Security (CARES) Act” that would provide \$1 trillion in direct financial assistance to Americans, small businesses and employees. A summary of the CARES Act can be accessed [here](#) and highlights are below:

- The centerpiece of the bill would provide a direct payment to qualified Americans of up to \$1,200 (\$2,400 for married couples). Taxpayers who have more than \$75,000 (\$150,000 for married couples) in Adjusted Gross Income (AGI) will begin to see that payment reduced by \$5 for every \$100 in AGI over the \$75,000 (\$150,000 for married couples) threshold, with those who have more than \$99,000 (\$198,000 married couples) in AGI getting nothing. Families with children would get an additional \$500 per child. While the legislation would push back the 2019 individual income tax-filing deadline from April 15 to July 15, the Internal Revenue Service and Treasury on Friday released IRS [Notice 2020-18](#) to administratively delay the filing deadline to July 15. The Act would also suspend student loan payments for three months.
- The bill provides for \$300 billion in support of federally guaranteed loans to qualifying small businesses.
- A number of corporate tax changes are included in the CARES Act, including: (i) accelerating the use of tax credits and net operating losses; and (ii) deferral for one to two years the employer’s share of social security tax deposits to help them generate cash for liquidity.
- The bill also authorizes more than \$200 billion in financial support for particularly strained industries, explicitly including the airlines and “other eligible businesses.” The proposal also facilitates 100% guaranteed loans for up to \$10 million for small businesses with possible loan forgiveness provisions for the portion of the loan that is spent on payroll and payments on debt obligations between March 1 and June 1.
- To address healthcare, the CARES ACT proposes measures to: (i) increase patient’s access to telehealth services, coronavirus testing, and over-the-counter medical products without prescriptions; (ii) enact Medicare-related changes related to telehealth services; (iii) allow an expanded range of products to be paid for through American’s Health Savings Accounts and Flexible Spending Accounts; (iv) provide for actions to be taken to address medical device shortages, supply chain disruption for medical devices and drugs. Read more [here](#).
- CARES also includes a liability waivers and protections for certain medical devices and other COVID-19, related mitigation actions.
- A section by section summary by the Senate Health, Education, Labor, and Pensions Committee is available [here](#).

After the release of the CARES Act, Senate Minority Leader Chuck Schumer (D-NY) and Speaker Nancy Pelosi (D-CA) issued a joint statement outlining their priorities for the next bill. The Democratic leaders stated that Phase 3 “must include new, strong and strict provisions that prioritize and protect workers, such as banning recipient companies from buying back stock, rewarding executives, and laying off workers”. The joint statement from Minority Leader Schumer and Speaker Pelosi is available [here](#).

In an effort to find a bipartisan agreement, Majority Leader McConnell requested that committees craft a deal by midnight on March 20. Reports are that the Committee Chairs and their Democratic counterparts are working well together and share the aim to get a deal crafted that will earn the



necessary 60 votes for Senate passage. While the midnight deadline has passed and no deal is in place yet, expectations for an agreement sometime today remain high.

Once an agreement is reached, the Senate Majority Leader will have to proceed with navigating consideration of the bill by the full Senate, which can be an arcane and difficult process. While there are options to speed the process up, regular practices would set a Senate vote on an agreement by Monday or Tuesday. The House, which is still in recess, would be called back to Washington, D.C. with 24 hours' notice to vote on the package; if this timeline holds true and the overall "deal" can be held together, Phase 3 could pass Congress by Wednesday, March 25.

Administration

On March 20, the President announced restrictions on all non-essential travel across the US-Canada and US-Mexico borders. In addition, the Department of Treasury and Internal Revenue Service announced the extension of the 2019 tax filing deadlines for individuals to July 2020.

Bureau of Land Management (BLM)

The BLM has suspended, without rescheduling, all meetings of its resource advisory councils and committees. BLM also suspended entrance fees on public lands until further notice. Read the entrance fee notice [here](#).

Department of Energy (DOE)

On March 19, the DOE issued a solicitation to purchase 77 million barrels of American-made crude oil. Congress must appropriate \$3 billion to DOE for the completion of these purchases. Read more [here](#).

Department of Homeland Security (DHS)

On March 19, DHS' Cyber and Infrastructure Security Agency (CISA) identified 16 "critical" sectors, including public health, electric power, petroleum, water and waste water, transportation, communications technology, law enforcement, food, and defense. DHS advised that employees in these "critical" industries should maintain their usual work schedules to aid the nation's response to coronavirus. DHS was clear to state that this is a recommendation, not a mandate, reiterating that DHS leaves the final decisions to state and local governments. Read the official statement [here](#).

Federal Energy Regulatory Commission (FERC)

FERC has announced a series of additional COVID-19 actions, including: (i) extending non-statutory filing deadlines for certain required reports, (ii) allowing for expedited waivers and extensions of other tariff, reporting and filing requirements; (iii) with the North American Electric Reliability Corporation (NERC), waiving compliance with personnel certification requirements under federal reliability standards for the remainder of 2020 and postponing scheduled on-site reliability audits through July 31, 2020; and (iv) announcing Caroline Wozniak, a Senior Policy Advisor in the Office of Energy Market Regulation, as the Commission's point of contact for all industry inquiries related to COVID-19. Further details on these measures are provided in a VNF Alert accessed [here](#).

MARCH 19, 2020 – 10:00 AM

[Joseph Nelson, Lilly Scott, and Tracy Tolk](#)

The Original Alert was published on March 14, 2020. We have updated the document to reflect new congressional responses and changing status of agency staff.

Congress

Last night the President signed [H.R. 6201, the "Families First Coronavirus Response Act"](#) into law following further negotiations between House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Mnuchin and Senate action at "warp speed" to pass the measure by a vote of 90 to 8. This law provides free testing, increased funding for food assistance, increased Medicaid benefits, enhanced unemployment insurance and establishes an emergency paid leave program.

Work has begun to craft the next round of legislation intended to provide economic relief and stimulate the economy. Senate Republican Leadership solicited ideas for legislation and have constructed taskforces to craft the bones of the next package. Senate Minority Leader Chuck Schumer (D-NY) and other Democrats already released a proposal to provide \$750 billion that would direct funds to

emergency aid for hospitals, expanded unemployment insurance, additional assistance for small businesses, childcare assistance and food assistance for seniors. Details on the Senate Democratic proposal can be found [here](#).

Additionally, on March 17, the White House released a proposal providing \$850 billion in stimulus spending that would include approximately \$500 billion through either a payroll tax holiday or direct payments to individuals, \$250 billion to support small-businesses, and \$50 billion for the airline industry. Details on the White House proposal can be found [here](#).

The Congressional schedule remains uncertain.

- The House has recessed and Representatives have returned to their respective congressional districts. The House was scheduled to return next week, but Speaker Pelosi has notified Members that they no longer expect to have votes on Monday, March 23rd, 2020. She explained that, pending any developments requiring votes, Members will have twenty-four hours' notice to return to D.C.

She also informed Members and staff that plans are being developed to coordinate votes in order to limit the number of Members voting on the Floor at any one time. This announcement came before Representatives Mario Diaz-Balart (R-FL) and Ben McAdams (D-UT) announced that they tested positive for COVID-19 and are in quarantine. The positive tests are having the ripple effect of additional self-quarantines by House Members who came in contact with these members last weekend while the House was in session.

- The Senate was scheduled to be in recess this week, however, Senate Majority Leader Mitch McConnell (R-KY) has committed to keeping the chamber in session until they complete consideration of the third relief package.

Department of Energy (DOE)

Telework programs are in place for authorized employees. Find the official statement [here](#). There are reports that some national DOE labs have begun to restrict access and ramp down activities. Read a news report of those changes in the labs [here](#).

Department of the Interior (Interior)

Telework programs are in place for authorized employees. For employees in the Washington, DC office, Interior is now requiring all "telework eligible" employees to start telework until further notice. The agency has turned authority over to local managers to operate or close specific federal public lands, including parks, wildlife refuges, and other federal lands. Many of these units are choosing to close or provide free entrance without services. Find the official statement [here](#).

U.S. Supreme Court

The U.S. Supreme Court has postponed oral arguments that were scheduled for the March session. However, it will hold its regularly scheduled conference on Friday, March 20 and will issue its regularly scheduled Order List on Monday, March 23 at 9:30 AM. The building will remain open for official business, and filing deadlines are not extended under Rule 30.1. The Court is expanding remote working capabilities and will remain closed to the public until further notice. Find the official statement [here](#).

U.S. Department of Agriculture (USDA)

On Sunday, March 15, a USDA employee in the National Capital Region (NCR) tested positive for COVID-19, triggering a partial shutdown of USDA offices. Maximized telework is available for USDA employees in the NCR beginning March 16. Read a news article covering the closing [here](#).

Environmental Protection Agency (EPA)

EPA is authorizing voluntary telework for all agency employees across the nation or the next four weeks, effective March 16. Read the news update [here](#).

National Park Service

The NPS has announced that sites in Florida, Utah, Georgia, Arizona, Texas, Pennsylvania, Washington state, Iowa and Hawaii are to be closed. For all remaining parks, the superintendents have been

"empowered to modify their operations, including closing facilities and cancelling programs." Find the official statement [here](#).

Department of Transportation (DOT) and Pipeline and Hazardous Materials Administration (PHMSA)

DOT and PHMSA are maintaining routine operating procedures at this time.

March 14, 2020 – 9:00 am

[*Joseph Nelson, Lilly Scott, and Tracy Tolk*](#)

The World Health Organization (WHO) officially categorized the COVID-19 viral disease a pandemic on Wednesday, March 11, 2020. Six days before WHO's announcement, Congress passed, and President Trump signed into law an initial \$8.3 billion spending bill, including designating funds to prevention efforts and research to produce a vaccine.

Yesterday, President Trump announced a state of emergency under the Stafford Act and directed a series of actions to further mitigate the spread of COVID-19. The Stafford Act declaration allows for the release of Federal Emergency Management Agency's (FEMA) disaster relief fund, which has a balance of more than \$40 billion. The declaration also allows the waiver of certain Medicare and Medicaid requirements, which have limited the scope of facilities and physicians eligible to provide care. Additionally, the President announced the purchase of additional crude oil for the Strategic Petroleum Reserve, and waiver of interest on student loans owned by the government for the remainder of 2020.

Despite these recent actions, COVID-19 continues to spread in the country. Van Ness Feldman is closely monitoring Congressional and federal agency responses to the pandemic, as well as measures being taken by electric reliability organizations and system operators for continuity of reliable electric system operations. Below is a report on Congressional activities and a summary of efforts within the electric sector. Links to status pages for key federal regulatory agencies and other vital entities are included below. Van Ness Feldman will continue to update this alert as additional steps are taken.

Congress

Shortly before 1 am today, the House passed [H.R. 6201, the "Families First Coronavirus Response Act,"](#) with rare bipartisan support; the [final vote](#) was 363 "ayes" to 40 "nays" with one Member of Congress voting "present". If signed into law, H.R. 6201 would provide free testing, increased funding for food assistance, increased Medicaid benefits, enhanced unemployment insurance and establish an emergency paid leave program. The bill followed efforts by House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Steven Mnuchin to negotiate a deal that could earn bipartisan support from the House and Senate as well as the President. Despite a planned recess, the Senate is scheduled to remain in session in order to vote on the measure early next week. The President is expected to sign the bill into law shortly thereafter. Congress is likely to recess until April 1 once the Families First Coronavirus Act becomes law.

The Congress will likely craft additional legislative relief packages in the coming weeks. The next legislative package is expected to address the economic impact to employees in specific sectors hurt particularly hard by social distancing measures and business closures. The following initiative is likely to focus on hard hit industrial sectors like the travel and tourism industries.

Regulatory Actions and Guidance

In addition to the disaster declaration and economic stimulus efforts, federal agencies have used existing authorities to issue guidance and take other measures in response to the COVID-19.

Centers for Disease Control – Monitoring Status of Virus

All federal agencies have been instructed to closely monitor updates from the Center for Disease Control and Prevention (CDC) as well as the Department of Health and Human Services. The CDC, in particular, is maintaining a website platform to update the status of

COVID-19 worldwide and within the United States. CDC's website also provides guidance on testing, mitigation and other issues of general interest. Access the CDC website [here](#).

General Services Administration – Tracking Federal Agency Responses

The General Services Administration has established a website that compiles all federal agency actions in response to COVID-19 and known status updates for particular federal agencies and programs. This site can be accessed [here](#).

Environmental Protection Agency (EPA)

Through its regulatory authorities, EPA has announced a series of COVID-19 related actions, including:

- Expediting the review of requests to add Emerging Viral Pathogen claims to already registered surface disinfectant labels, where such additions do not require the review of new efficacy data;
- Release of information on the treatment of waterborne pathogens and the low level of risk to drinking water and wastewater systems from COVID-19; and
- Maintaining a website with information regarding EPA approved disinfectants and their application to COVID-19. Read the official statements [here](#).

Small Business Administration (SBA) – Providing Loans

For regions identified in the President's disaster declaration, the SBA will use its Economic Injury Disaster Loan program to provide eligible small businesses with up to \$2 million in low-interest loans for economic injury from COVID-19 related business interruptions. Find the SBA loan site [here](#).

Federal Agency Work Arrangements and Access to Government Office Buildings and Properties

There is recognition that continuity of government operations must be maintained, within the framework of also protecting the workforce against further spread of COVID-19. The federal government's response continues to evolve as the scope of the pandemic expands. In almost all instances, official travel by government personnel is now restricted and subject to specific authorizations. Additionally, federal offices are routinely shifting in-person meetings to teleconference and webinar formats.

The continuing challenge is for federal agencies' to maintain continuity and staff accessibility to decision-makers as well as the public. The following is a summary of the status of work arrangements and office opening/closings within the federal government:

Telework for Federal Employees

On the evening of March 12, the Office of Management and Budget (OMB) issued a memorandum directing all Federal Executive Branch departments and agencies to maximize telework flexibility to eligible workers within those populations that the CDC has identified as being at higher risk for serious complications from COVID-19 (CDC High-Risk Complications) and to CDC-identified special populations including pregnant women (CDC Special Populations). Additional telework authorizations are encouraged in instances where "community spread" is occurring and also to more broadly accommodate state and local responses to the outbreak, including, but not limited to, school closures. Find the OMB memorandum [here](#).

Authorized Leave for At-Risk Employees

Separately, OMB also has encouraged departments and agencies to approve leave for safety reasons to employees who are at higher risk as identified by the CDC and not telework-eligible. These CDC-identified populations include older adults and individuals who have chronic health conditions, such as high blood pressure, heart disease, diabetes, lung disease, or compromised immune systems.

Federal Energy Regulatory Commission (FERC)

For the energy sector, FERC has cancelled its planned March 19, monthly meeting. Instead, the Commissioners will use notational (electronic) voting on the matters identified in its agenda and other required orders. Starting Monday, March 16 and until further notice, employees have been encouraged to telework and the FERC building will be closed indefinitely to outside visitors unless approved by the Office of the Executive Director. Find this announcement [here](#).

Congress and Agencies Access Restrictions

The following shows the current access restrictions for Congressional and agency offices:

Public Access to Federal Facilities and Properties

OPM's present policy is that each Federal facility has the authority and discretion to set requirements for admission. In making those decisions, OPM has advised federal agencies to consult guidance on day-to-day risk management for Federal facilities issued by the Interagency Security Committee and to coordinate on access procedures with Federal Protective Services and any other individual facility security organization. Find the official statement [here](#).

Congress

Access to the U.S. Capitol Building and the House and Senate Office Buildings is now limited to Members of Congress, staff, credentialed press and official business visitors. The closure continues through, at least, April 1, 2020. Read the official statement [here](#).

FERC

As noted above, FERC headquarters building in Washington, D.C. will be closed to all outside visitors, unless cleared for entry by the Office of Executive Director. Find this announcement [here](#).

National Park Service

Recognized as a particular flashpoint in prior government shutdowns, the National Parks remain open. Find the official statement [here](#).

Department of Energy (DOE)

DOE is maintaining its standard operating procedures at this time. Telework programs are in place for authorized employees. Find the official statement [here](#).

Department of the Interior (Interior)

Interior is maintaining its routine operating procedures at this time. Telework programs are in place for authorized employees. Find the official statement [here](#).

Electric Sector Continuity Plans and Mitigation Efforts

In light of their overall responsibility for ensuring reliable operation of the electric grid, reliability organizations, system operators, and utilities have long-coordinated on emergency planning. With the emergence of COVID-19, the Electricity Subsector Coordinating Council (ESCC) has continued these coordinated efforts, as well as related outreach with the Department of Homeland Security. Some key developments for the electricity sector have been:

Required Reporting on Pandemic Plans

On March 10, the North American Electric Reliability Corporation (NERC) issued a Level 2 alert requiring all registered entities within the electric sector to report on the status of their emergency pandemic plans to NERC by March 20. NERC will then provide an informational filing to FERC regarding those plans. Find the alert [here](#).

Electric Sector Guidance

On March 12, the ESCC released a resource guide for assessing and mitigating COVID-19. The guidance was prepared for investor-owned utilities, electric companies, electric cooperatives, and public power utilities. The guidance covers recommended best practices related to overall management and operations as well as supply chain management, staffing for critical

infrastructure and operations, activation of mutual assistance networks, cyber-security monitoring and external communication protocols. Find the guidance [here](#).

System Operators

Most regional reliability organizations and system operators have publicly announced their plans for maintaining business and system operation continuity through the COVID-19 outbreak. In general, access to control facilities and other critical energy infrastructure assets has been restricted; in-person and public meetings have been suspended or converted to teleconference or webinar formats and emergency operations plans have been activated. Links to these announcements are below:

Electric Reliability Council of Texas (ERCOT)

ERCOT has released announcements on its business operations status ([here](#)) and a Pandemic Preparedness Plan ([here](#)).

New York Independent System Operator (NYISO)

NYISO has limited access to its control system operations and indefinitely suspended all in-person stakeholder meetings to protect staff and visitors from exposure to COVID-19. Find the official statement [here](#).

PJM Interconnection (PJM)

PJM has moved all stakeholder meetings via WebEx until March 27, and has instituted plans to ensure continued operations of all market applications from either its campus or remotely. Find the official statement [here](#).

ISO New England (ISO-NE)

ISO-NE has implemented its Business Continuity and Pandemic Response Plans. All stakeholder meetings have been either canceled or converted to teleconferences. Find the update page [here](#).

California ISO (CAISO)

CAISO is restricting all in-person meetings at its offices and off-site venues; meetings will be conducted via teleconferences instead when possible. Controls on access to secure facilities have been increased. These measures will be in place through at least April 1. Read the official statement [here](#).

Midwest System Operator (MISO)

MISO has activated emergency procedures for building access and control room operations. Further, stakeholder meetings scheduled between March 9 and March 20 will be converted to conference calls via WebEx. Find official statements [here](#).

Southwest Power Pool (SPP)

SPP has moved all stakeholder meetings scheduled through the end of April to virtual meetings. Later meetings also may be rescheduled. Access to SPP facilities by non-essential visitors is prohibited. Find the official statement [here](#).

For More Information

Van Ness Feldman continues to closely monitor COVID-19 and the impacts it has on the federal government as well as other entities relevant to our clients. For more information about any of the agencies or entities mentioned above, please contact Joe Nelson at jbn@vnf.com, 202-298-1894; Lilly Scott at lscott@vnf.com, 202-298-1881; or Tracy Tolk at tan@vnf.com, 202-298-1937.

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