

**Key Energy Provisions of the  
American Recovery and Reinvestment Act of 2009**

**February 18, 2009**

On February 17, 2009, President Barack Obama signed into law H.R. 1, the American Recovery and Reinvestment Act of 2009 (the Act). Enacting over \$787 billion in appropriations and tax cuts, the Act authorizes many energy-related initiatives designed to encourage the development of renewable energy projects, energy efficiency, and the improvement of the national transmission grid.

In its entirety, the Act appropriates over \$59 billion in grants and loan guarantees that are related to energy initiatives or environmental initiatives to be carried out by the Department of Energy. The Act also provides nearly \$20 billion in several energy-related tax incentives available to individual and business taxpayers. The following summarizes the Act's key energy-related provisions.

***Electricity Efficiency, Development, and Reliability Grants***

- \$6.6 billion in grants for energy efficiency and renewable energy research, development, and demonstration projects
- \$4.5 billion in grants for modernizing the electricity grid through the Smart Grid Investment Program, including research and development funding
- \$6.3 billion in efficiency and conservation block grants to state and local governments
- \$5 billion in grants to weatherize low-income housing
- \$4.3 billion in grants to renovate and modernize Department of Defense facilities by making them energy efficient
- \$2 billion in grants to fund the development of advanced vehicle batteries
- \$500 million in grants for training workers for careers in energy efficiency and renewable energy
- \$400 million in grants to encourage electric vehicle technologies

- \$100 million in grants to fund public transit capital investments that reduce energy consumption

### ***Fossil Energy, Advanced Research, Environmental Grants***

- \$3.5 billion in grants for carbon capture and sequestration projects
- \$1.6 billion in grants for general energy-related science research
- \$4.5 billion in grants for the conversion of federal buildings into energy efficient green buildings
- \$5.1 billion in grants for defense environmental cleanup programs at active and former military properties
- \$483 million in grants for non-defense environmental cleanup programs
- \$390 million in grants for uranium decontamination and decommissioning
- \$300 million in grants to pursue diesel emission reduction initiatives
- \$400 million for advanced research projects conducted by the Advanced Research Projects Agency – Energy

### ***Guaranteed Loan Funding***

- \$6 billion in loan guarantees for the development of renewable energy and electric power transmission projects
- \$3.25 billion in loans to assist in construction and replacement of the transmission system of the Bonneville Power Administration
- \$3.25 billion in loans to the Western Area power Administration for the purpose of constructing new or upgraded facilities

### ***Tax Incentives***

- Extension (generally, three years) of the renewable energy production tax credit for wind facilities placed in service on or before December 31, 2012, or December 31, 2013 for certain other facilities, including biomass, geothermal, landfill gas, trash, hydropower, marine and hydrokinetic facilities
- Permitting a taxpayer to claim the investment tax credit (generally 30%) in lieu of a production tax credit for certain qualifying facilities, including wind, biomass, geothermal, landfill gas, trash, hydropower, marine and hydrokinetic facilities
- Permitting a taxpayer to receive a grant in lieu of a tax credit for certain qualifying facilities upon approval of the U.S. Treasury

- Removing investment tax credit cap (previously, \$4,000) for small wind property
- Eliminating investment tax credit reduction for property financed by subsidies or tax-exempt private activity bonds
- Increasing clean renewable energy bonds by \$1.6 billion to finance facilities that generate electricity from renewable resources
- Increasing qualified energy conservation bonds by \$2.4 billion
- Authorizing a 30% credit for investment in certain qualified property, including projects that expand or establish manufacturing facility that produces: (i) energy from the sun, wind, or geothermal deposits; (ii) fuel cells; (iii) electric grid to support the transmission of renewable energy; (iv) property designed to capture carbon dioxide emissions; (v) property designed to produce energy conservation technologies; or (vi) property designed to reduce greenhouse gas emissions
- Increasing the number of electric vehicles that may qualify for a plug-in electric vehicles tax credit
- Increasing the tax credit for individuals that make residential energy-efficient improvements
- Increasing the tax credit for alternative fuel vehicle refueling property placed into service in 2009 or 2010

As government officials consider solicitations for energy-related projects and funding is allocated, Morgan Lewis can assist clients with the following:

- Identifying opportunities for funding and preparing targeted client proposals that align with specific agency priorities and corporate objectives;
- Communicating with federal officials as program guidelines are developed and finalized;
- Designing “cost share” structures and other crucial components of applications for federal grants, loan guarantees, and other funding mechanisms;
- Negotiating funding contracts, including key provisions relating to protection of intellectual property rights when contracting with the Government;
- Considering appropriate tax-efficient structures within the framework of the Act; and
- Developing the entire range of supporting transactional documents for projects consistent with government requirements, advising on federal and state regulatory issues, and integrating federal funding with other project components.

Many companies are attempting to determine how best to pursue the energy-related funding opportunities

