Executive Order on Securing the United States Bulk-Power System

By Liza L.S. Mark | August 4, 2020

RELATED PRACTICES Corporate, Asia, International

Originally authored 5/4/2020

On May 1, 2020, President Trump signed an Executive Order 13920 ("***E.O.***") which empowers the Secretary of Energy, in coordination with other government officials, to prohibit transactions initiated after May 1, 2020 related to any bulk-power system electric equipment involving a foreign adversary where he determines the transaction poses an undue risk of sabotage or subversion of the bulk-power system, catastrophic effects to US critical infrastructure, or US national security.

Key Content of the E.O.:

The E.O. applies to "any acquisition, importation, transfer, or installation of any bulk-power system electric equipment." The Secretary of Energy is delegated broad authority to mitigate, prohibit or unwind transactions where he determines that:

1) the transaction involves bulk-power system electric equipment designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary; and

2) the transaction:

> i) poses an undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of the bulk-power system in the United States;
>
> ii) poses an undue risk of catastrophic effects on the security or resiliency of United States critical infrastructure or the economy of the United States; or
>
> iii) otherwise poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.

In addition, the E.O. authorizes the Secretary of Energy to establish "criteria for recognizing particular equipment and particular vendors in the bulk-power system electric equipment market as pre-qualified for future transactions" and to publish a list of pre-qualified equipment and vendors.

Ramification:

The E.O. follows a series of recent actions by the Trump Administration to protect US critical infrastructure. Last year, on May 15, 2019, the President Trump signed an executive order seeking to protect critical U.S. infrastructure from foreign adversaries, and in late 2019, the Department of Commerce proposed a rule implementing the terms of the May 2019 Executive Order. The two executive orders are similar in tone and structure. Though "foreign adversaries" are defined very broadly under the two orders as "any foreign government or foreign non-government person

© 2026 Haynes and Boone, LLP

engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or its allies or the security and safety of United States persons," China is very likely to fall within the scope of the orders.

The Secretary of Energy does not immediately identify any transactions that meet the criteria of the E.O., and he has until September 28, 2020 to issue implementing rules or regulations. However, as the Secretary of Energy could exercise the authority of the E.O. at any time, companies in the electric energy sector, including those in the renewable energy space, should assess their needs for foreign bulk-power equipment to evaluate their potential exposure to any actions taken pursuant to the E.O.

© 2026 Haynes and Boone, LLP