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Executive Order and Forthcoming Rules Will Restrict U.S. Imports and Installations of Foreign Bulk-Power System Equipment

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On Wednesday, August 26, 2026, President Donald Trump issued an Executive Order titled “Declaring a National Emergency to Secure the United States Bulk-Power System.” The Order establishes broad powers which will allow the U.S. Secretary of Energy to prohibit the importation or installation of foreign-produced bulk-power system electric equipment in the United States if the Secretary determines that the equipment presents undue or unacceptable risk to the U.S. power grid or to U.S. national security. It is currently unclear how these new powers will operate, but the Order does require the Secretary to publish implementing rules or regulations within the next 120 days. The White House also published a Fact Sheet to accompany the Order.

Types of Equipment Potentially Subject to the Order

The Order prohibits the acquisition, importation, transfer, or installation of any “foreign-produced bulk-power system electric equipment” in the United States in transactions initiated after August 26, 2026, involving equipment identified in a determination (described in the following section) made by the Secretary. The Order has established the following definitions to identify the types of equipment which are potentially subject to these restrictions:

“Foreign-produced” means “an article that is not manufactured, produced, or assembled in the United States.”

“Bulk-power system” means “a system that: (i) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (ii) electric energy from generation facilities needed to maintain electric system reliability.” The Order specifically notes that this definition includes transmission lines rated at 69,000 volts (69 kV) or more, but “does not include facilities used in the local distribution of electric energy.”

“Bulk-power system electric equipment” means “items used in bulk-power system substations, control rooms, or power generating stations, including reactors; capacitors; substation transformers; utility-scale and other grid-connected inverters; battery energy storage systems; and uninterruptible power supply systems supporting critical infrastructure, current coupling capacitors, large generators, small generators, backup generators, substation voltage regulators, shunt capacitor equipment, automatic circuit reclosers, instrument transformers, coupling capacity voltage transformers, protective relaying, metering equipment, high voltage circuit breakers, generation turbines, industrial control systems (including remote terminal units, programmable logic controllers, and intelligent electronic devices), distributed control systems, and safety instrumented systems. In determining whether equipment is within the scope of this order, agencies also may consider associated software and firmware, remote access capabilities, lifecycle maintenance and update mechanisms, and other supply chain dependencies that could present an unacceptable risk to the bulk-power system.

Equipment Determination Requirement

Notably, the Order does not categorically prohibit the acquisition, importation, transfer, or installation of **all** foreign-produced bulk-power system electric equipment. Instead, equipment only becomes subject to those prohibitions after the Secretary (in consultation with other federal agencies) has made a determination that: (1) the equipment or “any critical component, software, firmware, digital service, maintenance service, or remote-access capability associated with such equipment” is designed, developed, manufactured, or supplied by “persons owned by, controlled by, or subject to the jurisdiction or direction of a Covered Foreign Entity”, and (2) the transaction poses undue risks to the U.S. bulk-power system, poses undue risks to U.S. critical infrastructure or the U.S. economy, or otherwise poses an unacceptable risk to U.S. national security.

There are currently two ways in which a company will qualify as a “Covered Foreign Entity”:

1. Any “person owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is subject to a United States arms embargo or sanctions regime, under

the International Traffic in Arms Regulations (22 C.F.R. 126.1)” is automatically a “Covered Foreign Entity”; and

2. The Secretary separately has the discretionary authority to determine that additional countries not already subject to an arms embargo or sanctions regime under ITAR have “engaged in conduct that is detrimental to the national security or foreign policy of the United States.” After the Secretary makes such a determination, any persons owned by, controlled by, or subject to the jurisdictions of the governments associated with those countries will also qualify as “Covered Foreign Entities.”

At a minimum, the countries subject to the ITAR-related restrictions covered under the first prong consist of Belarus, Burma, China (including Hong Kong), Cuba, Iran, North Korea, Syria, and Venezuela. The Order’s forthcoming regulations will presumably define qualifying levels of foreign government “ownership,” “control,” and “jurisdiction” associated with those countries (and any additional countries identified under the second prong) which will cause a company to become a “Covered Foreign Entity.”

Treatment of Existing Equipment

Once the Secretary makes a determination that a type of foreign-produced bulk-power system electric equipment is subject to the Order’s prohibitions, then equipment of the same type which was installed prior to August 26 is exempt from the Order’s prohibitions regarding acquisition, importation, transfer, or installation. However, the Order does give the Secretary the authority to “impose conditions on the continued use, operation, maintenance, servicing, or updating” of such equipment. The Order specifically states that those “conditions” may include “requirements to identify, isolate, monitor, secure, disconnect, replace, or remove such equipment,” but also requires that the Secretary must consider “effects on reliability and safety, the availability of secure replacements, and continuity of essential service” before requiring any isolation, monitoring, securing, disconnection, replacement or removal of previously installed equipment.

Possibility of Pre-Qualification and Mitigation Measures

The Order provides the Secretary with the authority to “establish criteria and procedures for recognizing particular equipment and particular vendors in the bulk-power system electric equipment market as pre-qualified for future transactions and therefore exempt from [the Order’s prohibitions].” The Secretary is also authorized (but not required) to “establish and publish a list of pre-qualified equipment and vendors.” To the extent that the Secretary might make determinations that any class of foreign-produced bulk-power system electric equipment is subject to the Order’s prohibitions, then the Order also allows the Secretary to implement mitigating measures such as approval preconditions

for singular transactions or entire classes of transactions involving that equipment type which would otherwise be prohibited in connection with that determination.

Contact Us

Husch Blackwell's Energy & Natural Resources and International Trade & Supply Chain teams are tracking these developments closely. If you have questions on how this new Order or its forthcoming regulations may affect your company, please contact Grant Leach or your Husch Blackwell attorney.