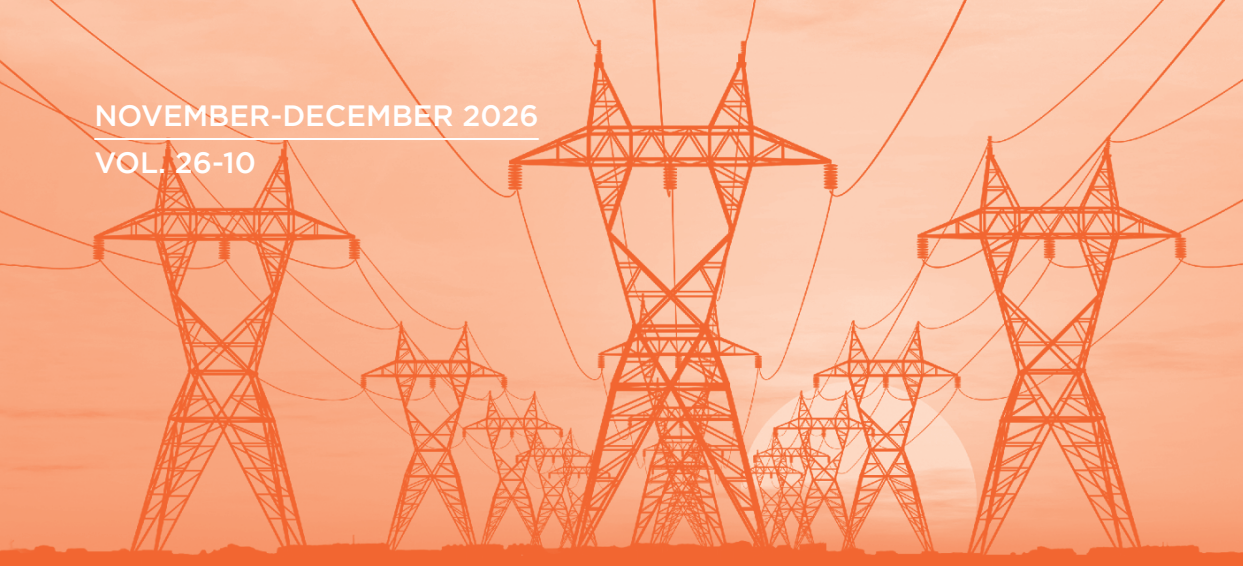
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President Trump Reissues First-Term Executive Order Targeting Foreign-Produced Bulk Power System Equipment

By Kevin E. Gaunt, Kevin W. Jones and Ted J. Murphy*

In this article, the authors discuss an executive order declaring a national emergency over foreign threats to the U.S. power grid and establishing a framework for the Department of Energy to prohibit specified transactions and to regulate certain equipment already in service.

President Trump has signed Executive Order 14421,[1] declaring a national emergency over foreign threats to the U.S. power grid and establishing a framework for the Department of Energy (DOE) to prohibit specified transactions involving foreign-produced Bulk Power System (BPS) equipment linked to "Covered Foreign Entities" and found to present specified risks. The Order also gives DOE authority to regulate certain equipment already in service, creating significant legal and commercial exposure for utilities, developers, equipment suppliers, and project lenders. Companies with supply chain exposure to foreign-produced grid equipment should assess their position now.

WHAT HAPPENED

The Order applies to BPS equipment, which includes facilities and control systems needed to operate an interconnected transmission network, generation needed to maintain electric-system reliability, and transmission lines operating at 69 kilovolts or above. BPS electric equipment potentially covered by the Order includes equipment used in substations, control rooms, and power-generating stations, including inverters, battery energy storage systems, and industrial control systems. Equipment used solely in local distribution is not covered.

Section 2(a) prohibits specified transactions initiated after August 26, 2026, including the acquisition, importation, transfer, or installation of covered foreign-produced equipment, where DOE determines that the transaction involves the requisite foreign interest, equipment associated with a Covered Foreign Entity, and a specified national-security or related risk. The Order also directs DOE to establish a pre-qualification process that could exempt specific equipment or vendors from the transaction prohibitions.

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[1] https://www.whitehouse.gov/presidential-actions/2026/08/declaring-a-national-emergency-to-secure-the-united-states-bulk-power-system/.

Section 2(b) reaches covered equipment acquired or installed before August 26, 2026. Indeed, the Order provides that all Section 2 prohibitions apply "notwithstanding any contract entered into or any license or permit granted" before that date. Upon making the required determinations, DOE may impose conditions on the continued use, operation, maintenance, servicing, or updating of such equipment, including requirements to identify, isolate, monitor, secure, disconnect, replace, or remove it. The legal basis for that authority, however, may not be clear. IEEPA authorizes regulation of the "use" of property in which a foreign country or national retains an interest. It remains unresolved whether that authority extends to ordering the removal of equipment owned outright by a U.S. utility with no continuing foreign interest.

BACKGROUND

This is not the first time the Administration has moved on this issue. President Trump signed Executive Order 13920[2] in May 2020, establishing a similar prohibition regime. DOE's principal action under the 2020 Order was a December 2020 prohibition order[3] targeting certain Chinese-made equipment serving critical defense facilities. The Biden Administration revoked[4] that prohibition in April 2021, issued a request for information[5] on future restrictions, and ultimately allowed the underlying national emergency declaration to lapse without further rulemaking.

The new Order revives and expands the 2020 Order's framework. Equipment definitions are broader, more agencies are involved in decision-making, and implementing deadlines are now binding. The Order identifies the growing importance of reliable electricity to advanced manufacturing, data centers, AI infrastructure, and defense production as heightening the national-security consequences of foreign supply-chain vulnerabilities. It identifies potential digital backdoors, supply disruptions, and other supply-chain dependencies as sources of risk.

WHY IT MATTERS

The Order itself may take months to bite. DOE still needs to publish implementing rules and make transaction-specific determinations. Supply chain

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[2] https://www.federalregister.gov/documents/2020/05/04/2020-09695/securing-the-united-states-bulk-power-system.

[3] https://www.energy.gov/sites/prod/files/2020/12/f81/BPS%20EO%20Prohibition%20Order%20Securing%20Critical%20Defense%20Facilities%2012.17.20%20-%20SIGNED.pdf.

[4] https://www.energy.gov/sites/default/files/2021-04/Revocation%20of%20Prohibition%20Order%2004202021.pdf.

[5] https://www.energy.gov/sites/default/files/2021-04/RFI%20Ensuring%20the%20Continued%20Security%20of%20US%20Critical%20Electric%20Infrastructure%2004202021.pdf.

uncertainty is likely to disrupt procurement planning, project financing, and permitting well before any formal enforcement action.

Notably, the 2026 Order adopts a broader approach than the 2020 Order, which focused expressly on "foreign adversaries." Chinese manufacturers dominate key segments of the U.S. grid equipment market, including inverters, battery storage systems, and many control-system components, and China falls squarely within the Order's baseline Covered Foreign Entity definition. But the definition also reaches countries and persons determined to engage in conduct detrimental to U.S. national security or foreign policy interests. Because that latter prong does not require a foreign-adversary designation, equipment sourced from allied nations is not categorically outside the Order's potential reach—particularly where DOE treats supply-chain resilience or domestic industrial capacity as independent national-security concerns.

The Order's ownership-chain reach adds another layer of concern. DOE looks to ownership, control, and direction, not just the name on the contract, to determine whether a transaction involves a Covered Foreign Entity. A supplier that appears unaffiliated can still trigger the Order if a Covered Foreign Entity holds a controlling stake. Screening direct counterparties alone is not enough.

ISSUES TO WATCH

The next step in implementing the Order will be DOE regulations due within 120 days, or late December 2026. Those rules will clarify the Covered Foreign Entity list beyond the ITAR baseline, the risk-determination process, the licensing and mitigation framework, and the pre-qualification criteria. The pre-qualification standards are worth particular attention: they could function as a de facto domestic content or supply chain transparency requirement affecting a wide range of vendors, including those not currently associated with sanctioned countries. Affected companies should consider participating if a public comment period opens.

Federal contractors and agencies have a separate deadline to track. The Order directs DOE to recommend changes to the Federal Acquisition Regulation within 180 days (by around February 2027) to factor national security into federal energy infrastructure procurement and favor U.S.-manufactured equipment. The FAR Council then has 90 days to consider putting those recommendations out for public comment.

NEXT STEPS FOR BUSINESSES

Companies with supply chain exposure to foreign-produced BPS equipment should take the following steps now:

- Inventory existing equipment to identify foreign-made bulk-power

system equipment currently in service, with particular focus on equipment from ITAR § 126.1 countries, and review any associated software, maintenance, or remote-access arrangements that may create a continuing foreign interest relevant to the Order's replacement authority.

- Review pending and pipeline procurement to assess whether contracts involving the importation of covered equipment were initiated before or after August 26, 2026, and evaluate alternative sourcing where exposure exists.
- Audit existing contracts for change-in-law, force majeure, termination, substitution, and regulatory compliance provisions, and assess exposure to stranded costs or project delays if restrictions are imposed on covered equipment.
- Conduct ownership-chain due diligence on equipment suppliers, looking beyond first-tier counterparties to identify potential Covered Foreign Entity ownership or control, including suppliers from non-adversary countries.
- Monitor the 120-day rulemaking and evaluate whether to participate in any public comment process, with particular attention to pre-qualification criteria and the Covered Foreign Entity designation process.
- Assess federal procurement implications for companies with energy infrastructure contracts, in anticipation of forthcoming FAR amendments.